

CHAPTER 97-160

Committee Substitute for House Bill Nos. 715, 1249, 1321, and 1339

An act relating to environmental protection; amending s. 373.016, F.S.; revising legislative policy; providing construction and application; amending s. 373.019, F.S.; revising definitions; defining “district water management plan,” “Florida water plan,” “regional water supply plan,” “water resource development,” “water resource implementation rule,” and “water supply development;” amending s. 373.036, F.S.; eliminating the state water use plan; providing for development of the Florida water plan, to include the water resource implementation rule; providing procedure for rule amendment; requiring water management district governing boards to develop district water management plans; creating s. 373.0361, F.S.; providing requirements for regional water supply plans for regions identified in district water management plans; requiring an annual report; amending s. 373.042, F.S.; revising minimum flows and levels timing requirements; providing for independent scientific peer review; creating s. 373.0421, F.S.; requiring certain considerations in establishment and implementation of minimum flows and levels; providing for implementation of recovery or prevention strategies; amending s. 373.046, F.S.; providing for interdistrict agreements for implementation of certain regulatory responsibilities; amending s. 373.0693, F.S.; correcting a cross reference; amending s. 373.073, F.S.; revising procedure for appointment of members to the water management district governing boards; providing a timetable; providing criteria for selection; amending s. 373.079, F.S.; requiring the Governor to select a governing board member as chair of the governing board; revising procedure for appointment of district executive directors; providing respective authority of the Governor and governing boards; authorizing employment of governing board ombudsmen; providing for confirmation of executive directors by the Senate; revising duties of governing board legal staff; creating s. 373.0831, F.S.; specifying governing board responsibilities for water resource development and responsibilities of other entities for water supply development; providing for priorities for funding; requiring a report; amending s. 373.139, F.S.; authorizing the use of land for multiple purposes; amending s. 373.236, F.S.; revising provisions relating to duration of consumptive use permits; requiring compliance reports and permit modification, under certain circumstances; requiring a proposal for reevaluation of certain areas with contaminated water supplies; amending s. 373.507, F.S.; revising provisions relating to district and basin audits, budgets, and expense reports; requiring districts to furnish copies of documents to specified entities and to respond to comments; amending s. 373.536, F.S.; providing requirements for notice and advertisement of district budget hearings and workshops; providing requirements for budget identification of administrative and operating expenses; providing for certain analysis of budgets; revising requirements for submittal of tentative budgets;

amending s. 373.59, F.S.; deleting obsolete language; correcting a cross reference; authorizing use of interests in property acquired under the Water Management Lands Trust Fund for permissible water resource development and water supply development purposes; amending ss. 186.007, 186.009, 373.103, 373.114, 373.418, 373.456, 403.031, and 403.0891, F.S., to conform to the act; repealing ss. 373.026(10), 373.039, and 403.061(33), F.S., relating to state water policy and the Florida water plan; repealing s. 373.0735, F.S., relating to appointment of members to the governing board of the Southwest Florida Water Management District; providing for grandfathering-in of minimum flows and levels for priority waters in Pasco County and Hillsborough County pursuant to provisions of chapter 96-339, Laws of Florida; providing for application of act to Hillsborough River and the Palm River/Tampa By-Pass Canal; amending s. 373.1962, F.S.; providing procedures that a regional water supply authority may use to provide alternative sources of potable water; amending s. 373.1963, F.S.; providing for supplemental report from the West Coast Regional Water Supply Authority; amending s. 376.307, F.S.; providing that funds in the Water Quality Assurance Trust Fund may be used for certain subsidies or filters; amending s. 373.309, F.S.; authorizing the Department of Health to establish criteria for acceptance of certain tests; prohibiting the payment of severance pay by a water management district to any of its officers or employees, except under specified circumstances; providing a legislative finding; creating the Water Management District Employee Compensation Study Commission; providing its duties; amending s. 253.03, F.S.; extending the submerged lands lease for certain properties; amending s. 370.06, F.S.; authorizing the department to issue special activity licenses for aquacultural activities involving sturgeon; amending s. 370.092, F.S.; providing for the transport of mullet harvested in Alabama waters; providing for penalties for fishing during periods of license suspension or revocation; amending s. 373.250, F.S.; providing a date for water management districts to submit annual reports to the Legislature; creating s. 370.093, F.S.; prohibiting the harvest of marine life with nets inconsistent with s. 16, Art. X of the State Constitution; providing for penalties; providing a definition of the terms "net" and "netting"; authorizing the Marine Fisheries Commission to adopt certain rules; amending s. 370.14, F.S.; providing the Marine Patrol discretion to be present at the closed-season weighing of crawfish; creating s. 370.1405, F.S.; providing for the sale of crawfish during a closed season under specified reporting requirements; providing penalties; establishing an experimental program to assess the utility and effects of using "tarp" nets to harvest baitfish; creating s. 403.0882, F.S.; providing definitions; specifying conditions and limitations for the discharge of demineralization concentrate; specifying conditions for discharge of concentrate from small water utility businesses; limiting departmental regulation of such businesses; providing a permitting schedule for demineralization facilities; providing an effective date.

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

Section 1. Present subsection (2) of section 373.016, Florida Statutes, is amended, subsections (3) and (4) are renumbered as subsections (4) and (5), respectively, and a new subsection (2) is added to that section, to read:

373.016 Declaration of policy.—

(2) The department and the governing board shall take into account cumulative impacts on water resources and manage those resources in a manner to ensure their sustainability.

~~(3)~~(2) It is further declared to be the policy of the Legislature:

(a) To provide for the management of water and related land resources;

(b) To promote the conservation, replenishment, recapture, enhance-ment, development, and proper utilization of surface and ground water;

(c) To develop and regulate dams, impoundments, reservoirs, and other works and to provide water storage for beneficial purposes;

(d) To promote the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems;

~~(e)~~(d) To prevent damage from floods, soil erosion, and excessive drain-age;

~~(f)~~(e) To minimize degradation of water resources caused by the dis-charge of stormwater;

(g)(f) To preserve natural resources, fish, and wildlife;

(h)(g) To promote the public policy set forth in s. 403.021;

~~(i)~~(h) To promote recreational development, protect public lands, and assist in maintaining the navigability of rivers and harbors; and

~~(j)~~(i) Otherwise to promote the health, safety, and general welfare of the people of this state.

In implementing this chapter, the department and the governing board shall construe and apply the policies in this subsection as a whole, and no specific policy is to be construed or applied in isolation from the other policies in this subsection.

Section 2. Section 373.019, Florida Statutes, 1996 Supplement, is amended to read:

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

~~(1)~~(13) “Coastal waters” means waters of the Atlantic Ocean or the Gulf of Mexico within the jurisdiction of the state.

~~(2)~~(4) “Department” means the Department of Environmental Protection or its successor agency or agencies.

~~(3)~~ “(District water management plan) means the regional water resource plan developed by a governing board under s. 373.036.”

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

~~(5)~~ “(Florida water plan) means the state-level water resource plan developed by the department under s. 373.036.”

~~(6)~~(3) “Governing board” means the governing board of a water management district.

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

~~(8)~~(14) “Impoundment” means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth’s surface and having a discernible shoreline.

~~(9)~~(48) “Independent scientific peer review” means the review of scientific data, theories, and methodologies by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, and other scientific disciplines relevant to the matters being reviewed under s. 373.042.

~~(10)~~(7) “Nonregulated use” means any use of water which is exempted from regulation by the provisions of this chapter.

~~(11)~~(42) “Other watercourse” means any canal, ditch, or other artificial watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

~~(12)~~(5) “Person” means any and all persons, natural or artificial, including any individual, firm, association, organization, partnership, business trust, corporation, company, the United States of America, and the state and all political subdivisions, regions, districts, municipalities, and public agencies thereof. The enumeration herein is not intended to be exclusive or exhaustive.

~~(13)~~(4) “Reasonable-beneficial use” means the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.

~~(14)~~ “(Regional water supply plan) means a detailed water supply plan developed by a governing board under s. 373.0361.”

~~(15)~~(44) “Stream” means any river, creek, slough, or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some part of the

bed or channel has been dredged or improved does not prevent the watercourse from being a stream.

~~(16)~~(10) “Surface water” means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth’s surface.

~~(17)~~(8) “Water” or “waters in the state” means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

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

(19) “Water resource development” means the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments and to government-owned and privately owned water utilities.

~~(20)~~(16) “State Water resource implementation rule policy” means the rule authorized by s. 373.036, which sets comprehensive statewide policy as adopted by the department pursuant to ss. 373.026 and 403.061 setting forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The waters of the state are among its most basic resources. Such waters should be managed to conserve and protect water resources and to realize the full beneficial use of these resources.

(21) “Water supply development” means the planning, design, construction, operation, and maintenance of public or private facilities for water collection, production, treatment, transmission, or distribution for sale, resale, or end use.

~~(22)~~(17) For the sole purpose of serving as the basis for the unified statewide methodology adopted pursuant to s. 373.421(1), as amended, “wetlands” means those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These

species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. Upon legislative ratification of the methodology adopted pursuant to s. 373.421(1), as amended, the limitation contained herein regarding the purpose of this definition shall cease to be effective.

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

Section 3. Section 373.036, Florida Statutes, is amended to read:

373.036 Florida water plan; district water management plans State water use plan.—

(1) FLORIDA WATER PLAN.—In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:

(a) The programs and activities of the department related to water supply, water quality, flood protection and floodplain management, and natural systems.

(b) The water quality standards of the department.

(c) The district water management plans.

(d) Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule pursuant to s. 373.019(20), shall serve as this part of the plan. Amendments or additions to this part of the Florida water plan shall be adopted by the department as part of the water resource implementation rule. In accordance with s. 373.114, the department shall review rules of the water management districts for consistency with this rule. Amendments to the water resource implementation rule must be adopted by the secretary of the department and be submitted to the President of the Senate and the Speaker of the House of Representatives within 7 days after publication in the Florida Administrative Weekly. Amendments shall not become effective until the conclusion of the next regular session of the Legislature following their adoption.

~~(1) The department shall proceed as rapidly as possible to study existing water resources in the state; means and methods of conserving and augmenting such waters; existing and contemplated needs and uses of water for~~

~~protection and procreation of fish and wildlife, irrigation, mining, power development, and domestic, municipal, and industrial uses; and all other related subjects, including drainage, reclamation, flood plain or flood hazard area zoning, and selection of reservoir sites. The department shall cooperate with the Executive Office of the Governor, or its successor agency, progressively to formulate, as a functional element of a comprehensive state plan, an integrated, coordinated plan for the use and development of the waters of the state, based on the above studies. This plan, with such amendments, supplements, and additions as may be necessary from time to time, shall be known as the state water use plan.~~

(2) DISTRICT WATER MANAGEMENT PLANS.—

(a) Each governing board shall develop a district water management plan for water resources within its region, which plan addresses water supply, water quality, flood protection and floodplain management, and natural systems. The district water management plan shall be based on at least a 20-year planning period, shall be developed and revised in cooperation with other agencies, regional water supply authorities, units of government, and interested parties, and shall be updated at least once every 5 years. The governing board shall hold a public hearing at least 30 days in advance of completing the development or revision of the district water management plan.

(b) The district water management plan shall include, but not be limited to:

1. The scientific methodologies for establishing minimum flows and levels under s. 373.042, and all established minimum flows and levels.

2. Identification of one or more water supply planning regions that singly or together encompass the entire district.

3. Technical data and information prepared under ss. 373.0391 and 373.0395.

4. A districtwide water supply assessment, to be completed no later than July 1, 1998, which determines for each water supply planning region:

a. Existing legal uses, reasonably anticipated future needs, and existing and reasonably anticipated sources of water and conservation efforts; and

b. Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for all existing legal uses and reasonably anticipated future needs and to sustain the water resources and related natural systems.

5. Any completed regional water supply plans.

(c) If necessary for implementation, the governing board shall adopt by rule or order relevant portions of the district water management plan, to the extent of its statutory authority.

~~(d)(2)~~ In the formulation of the district water management state water use plan, the governing board department shall give due consideration to:

~~1.(a)~~ The attainment of maximum reasonable-beneficial use of water resources ~~for such purposes as those referred to in subsection (1).~~

~~2.(b)~~ The maximum economic development of the water resources consistent with other uses.

~~3.(c)~~ The management control of water resources ~~such waters~~ for such purposes as environmental protection, drainage, flood control, and water storage.

~~4.(d)~~ The quantity of water available for application to a reasonable-beneficial use.

~~5.(e)~~ The prevention of wasteful, uneconomical, impractical, or unreasonable uses of water resources.

~~6.(f)~~ Presently exercised domestic use and permit rights.

~~7.(g)~~ The preservation and enhancement of the water quality of the state ~~and the provisions of the state water quality plan.~~

~~8.(h)~~ The state water resources policy as expressed by this chapter.

~~(3)~~ ~~During the process of formulating or revising the state water use plan, the department shall consult with, and carefully evaluate the recommendations of, concerned federal, state, and local agencies, particularly the governing boards of the water management districts, and other interested persons.~~

~~(4)~~ ~~Each governing board is directed to cooperate with the department in conducting surveys and investigations of water resources, to furnish the department with all available data of a technical nature, and to advise and assist the department in the formulation and drafting of those portions of the state plan applicable to the district.~~

~~(5)~~ ~~The department shall not adopt or modify the state water use plan or any portion thereof without first holding a public hearing on the matter. At least 90 days in advance of such hearing, the department shall notify any affected governing boards, and shall give notice of such hearing by publication within the affected region pursuant to the provisions of chapter 120, except such notice by publication shall be extended at least 90 days in advance of such hearings.~~

~~(6)~~ ~~For the purposes of this plan the department may, in consultation with the affected governing board, divide each water management district into sections which shall conform as nearly as practicable to hydrologically controllable areas and describe all water resources within each area.~~

~~(3)(7)~~ The department and governing board shall give careful consideration to the requirements of public recreation and to the protection and procreation of fish and wildlife. The department or governing board may

prohibit or restrict other future uses on certain designated bodies of water which may be inconsistent with these objectives.

(4)(8) The governing board department may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would constitute an undesirable use for which the governing board may deny a permit.

(5)(9) The governing board department may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would result in an enhancement or improvement of the water resources of the area. Such uses shall be preferred over other uses in the event of competing applications under the permitting systems authorized by this chapter.

(6)(40) The department, in cooperation with the Executive Office of the Governor, or its successor agency, may add to the Florida water state water use plan any other information, directions, or objectives it deems necessary or desirable for the guidance of the governing boards or other agencies in the administration and enforcement of this chapter.

Section 4. Section 373.0361, Florida Statutes, is created to read:

373.0361 Regional water supply planning.—

(1) By October 1, 1998, the governing board shall initiate water supply planning for each water supply planning region identified in the district water management plan under s. 373.036, where it determines that sources of water are not adequate for the planning period to supply water for all existing and projected reasonable-beneficial uses and to sustain the water resources and related natural systems. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water utilities, self-suppliers, and other affected and interested parties. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section shall be subject to s. 120.569. The governing board shall re-evaluate such a determination at least once every five years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.

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

(a) A water supply development component that includes:

1. A quantification of the water supply needs for all existing and reasonably projected future uses within the planning horizon. The level-of-certainty planning goal associated with identifying the water supply needs of existing and future reasonable-beneficial uses shall be based upon meeting those needs for a 1-in-10 year drought event.

2. A list of water source options for water supply development, including traditional and alternative sources, from which local government, govern-

ment-owned and privately owned utilities, self-suppliers, and others may choose, which will exceed the needs identified in subparagraph 1.

3. For each option listed in subparagraph 2., the estimated amount of water available for use and the estimated costs of and potential sources of funding for water supply development.

4. A list of water supply development projects that meet the criteria in s. 373.0831(4).

(b) A water resource development component that includes:

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

2. For each water resource development project listed:

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

b. The timetable for implementing or constructing the project and the estimated costs for implementing, operating, and maintaining the project.

c. Sources of funding and funding needs.

d. Who will implement the project and how it will be implemented.

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

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

(e) Consideration of how the options addressed in paragraphs (a) and (b) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development. However, unless adopted by rule, these considerations do not constitute final agency action.

(f) The technical data and information applicable to the planning region which are contained in the district water management plan and are necessary to support the regional water supply plan.

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

(3) Regional water supply plans initiated or completed by July 1, 1997, shall be revised, if necessary, to include a water supply development component and a water resource development component as described in paragraphs (2)(a) and (b).

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

(5) By November 15, 1997, and annually thereafter, the department shall submit to the Governor and the Legislature a report on the status of regional water supply planning in each district. The report shall include:

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

(b) A description of each district's progress toward achieving its water resource development objectives, as directed by s. 373.0831(3), including the district's implementation of its 5-year water resource development work program.

(6) Nothing contained in the water supply development component of the district water management plan shall be construed to require local governments, government-owned or privately owned water utilities, self-suppliers, or other water suppliers to select a water supply development option identified in the component merely because it is identified in the plan. However, this subsection shall not be construed to limit the authority of the department or governing board under part II.

Section 5. Section 373.042, Florida Statutes, 1996 Supplement, is amended to read:

373.042 Minimum flows and levels.—

(1) Within each section, or the water management district as a whole, the department or the governing board shall establish the following:

(a) Minimum flow for all surface watercourses in the area. The minimum flow for a given watercourse shall be the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

(b) Minimum water level. The minimum water level shall be the level of groundwater in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources of the area.

The minimum flow and minimum water level shall be calculated by the department and the governing board using the best information available. When appropriate, minimum flows and levels may be calculated to reflect seasonal variations. The department and the governing board shall also consider, and at their discretion may provide for, the protection of nonconsumptive uses in the establishment of minimum flows and levels.

(2) By July 1, 1996, the Southwest Florida Water Management District shall amend and submit to the department for review and approval its priority list for the establishment of minimum flows and levels and delineating the order in which the governing board shall establish the minimum flows and levels for surface watercourses, aquifers, and surface water in the counties of Hillsborough, Pasco, and Pinellas. By November 15, 1997, and annually thereafter, each water management district shall submit to the department for review and approval a priority list and schedule for the

establishment of minimum flows and levels for surface watercourses, aquifers, and surface waters within the district. The priority list shall also identify those water bodies for which the district will voluntarily undertake independent scientific peer review. By January 1, 1998, and annually thereafter, each water management district shall publish its approved priority list and schedule in the Florida Administrative Weekly. The priority list shall be based upon the importance of the waters to the state or region and the existence of or potential for significant harm to the water resources or ecology of the state or region, and shall include those waters which are experiencing or may reasonably be expected to experience experiencing adverse impacts and those waters which are identified as possible new water supply sources proposing to withdraw 5 million gallons or more per day in the future. The development of The priority list and schedule shall not be subject to any constitute a point of entry to an administrative proceeding pursuant to chapter 120. Except as provided in subsection (3), the development of a priority list and compliance with the schedule for the establishment of minimum flows and levels pursuant to this subsection shall satisfy the requirements of subsection (1).

(3) Minimum flows or levels for priority waters in the Counties of Hillsborough, Pasco, and Pinellas subsection (2) shall be established by October 1, 1997. Where a minimum flow or level for the priority waters within those counties has not been established by the applicable deadline, the secretary of the department shall, if requested by the governing body of any local government within whose jurisdiction the affected waters are located, establish the minimum flow or level flows and levels in accordance with the procedures established by this section. The department's reasonable costs in establishing a minimum flow or level shall, upon request of the secretary, be reimbursed by the applicable district.

(4)(a) Upon written request to the department or governing board by a substantially affected person, or by decision of the department or governing board, prior to the establishment of a minimum flow or level and prior to the filing of any petition for administrative hearing related to the minimum flow or level, all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a minimum flow or level shall be subject to independent scientific peer review. Independent scientific peer review means review by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, biology, and other scientific disciplines, to the extent relevant to the establishment of the minimum flow or level.

(b) If independent scientific peer review is requested, it shall be initiated at an appropriate point agreed upon by the department or governing board and the person or persons requesting the peer review. If no agreement is reached, the department or governing board shall determine the appropriate point at which to initiate peer review. The members of the peer review panel shall be selected within 60 days of the point of initiation by agreement of the department or governing board and the person or persons requesting the peer review. If the panel is not selected within the 60-day period, the time limitation may be waived upon the agreement of all parties. If no waiver occurs, the department or governing board may proceed to select the peer

review panel. The cost of the peer review shall be borne equally by the district and each party requesting the peer review, to the extent economically feasible. The panel shall submit a final report to the governing board within 120 days after its selection unless the deadline is waived by agreement of all parties. Initiation of peer review pursuant to this paragraph shall toll any applicable deadline under chapter 120 or other law or district rule regarding permitting, rulemaking, or administrative hearings, until 60 days following submittal of the final report. Any such deadlines shall also be tolled for 60 days following withdrawal of the request or following agreement of the parties that peer review will no longer be pursued. The department or the governing board shall give significant weight to the final report of the peer review panel when establishing the minimum flow or level.

(c) If the final data, methodologies, and models, including all scientific and technical assumptions employed in each model upon which a minimum flow or level is based, have undergone peer review pursuant to this subsection, by request or by decision of the department or governing board, no further peer review shall be required with respect to that minimum flow or level.

(d) No minimum flow or level adopted by rule or formally noticed for adoption on or before May 2, 1997, shall be subject to the peer review provided for in this subsection. Prior to the establishment of minimum flows or levels for water resources areas identified in subsection (2), and prior to filing any petition for administrative hearing, scientific or technical data and methodologies, if in dispute, shall, upon written request to the governing board by a substantially affected person, be subject to independent scientific peer review. The members of the peer review panel shall be selected by agreement of the parties in interest within 60 days after receipt of the request. In the event the panel is not selected within this time, then, upon the agreement of all parties, the time may be waived, or, if no waiver occurs, the governing board may proceed to establish the minimum flows and levels. The cost of the peer review shall be borne equally by the parties selecting the panel, to the extent economically feasible. The panel shall conduct at least one public meeting of the full panel in accordance with s. 286.011(1) and (6) prior to the submission of the final report. The panel shall submit a final report to the governing board within 120 days after selection. Upon request by all members of the panel and agreement of the parties, the time for submittal may be extended for up to 30 additional days. In the event the final report is not submitted within such time, the governing board may proceed to establish the minimum flows and levels pursuant to this section. Filing of a request shall toll any applicable deadline under chapter 120, or other law or district rule, until 60 days following submittal of the final report. Any such deadlines shall also be tolled for 60 days following the withdrawal of the request, agreement of the parties that peer review will no longer be pursued, or failure to meet any deadline set forth in this subsection. If the selection of the panel is subject to the requirements of chapter 287, then the panel shall submit its final report to the governing board within 120 days after the completion of the process required pursuant to chapter 287. The governing board shall give significant weight to the final report of the panel in establishing the minimum flow or level, as appropri-

ate. The final report may also be entered into the record by any party to the proceeding in which the minimum flow or level is applicable.

(5) If a petition for administrative hearing is filed under chapter 120 challenging the establishment of ~~a the minimum flow or level flows or levels,~~ the report of ~~an the independent scientific peer review conducted under subsection (4)~~ is admissible as evidence in the final hearing, and the ~~administrative law judge hearing officer~~ must render the order within 120 days after the filing of the petition. The time limit for rendering ~~the an~~ order shall not be extended except by agreement of all the parties. To the extent that the parties agree to the findings of the peer review, they may stipulate that those findings be incorporated as findings of fact in the final order.

Section 6. Section 373.0421, Florida Statutes, is created to read:

373.0421 Establishment and implementation of minimum flows and levels.—

(1) ESTABLISHMENT.—

(a) When establishing minimum flows and levels pursuant to s. 373.042, the department or governing board shall consider changes and structural alterations to watersheds, surface waters, and aquifers and the effects such changes or alterations have had, and the constraints such changes or alterations have placed, on the hydrology of an affected watershed, surface water, or aquifer, provided that nothing in this paragraph shall allow significant harm as provided by s. 373.042(1) caused by withdrawals.

(b) Exclusions.—

1. The Legislature recognizes that certain water bodies no longer serve their historical hydrologic functions. The Legislature also recognizes that recovery of these water bodies to historical hydrologic conditions may not be economically or technically feasible, and that such recovery effort could cause adverse environmental or hydrologic impacts. Accordingly, the department or governing board may determine that setting a minimum flow or level for such a water body based on its historical condition is not appropriate.

2. The department or the governing board is not required to establish minimum flows or levels pursuant to s. 373.042 for surface water bodies less than 25 acres in area, unless the water body or bodies, individually or cumulatively, have significant economic, environmental, or hydrologic value.

3. The department or the governing board shall not set minimum flows or levels pursuant to s. 373.042 for surface water bodies constructed prior to the requirement for a permit, or pursuant to an exemption, a permit, or a reclamation plan which regulates the size, depth, or function of the surface water body under the provisions of chapter 373, chapter 378, or chapter 403, unless the constructed surface water body is of significant hydrologic value or is an essential element of the water resources of the area.

The exclusions of this paragraph shall not apply to the Everglades Protection Area, as defined in s. 373.4592(2)(h).

(2) If the existing flow or level in a water body is below, or is projected to fall within 20 years below, the applicable minimum flow or level established pursuant to s. 373.042, the department or governing board, as part of the regional water supply plan described in s. 373.0361, shall expeditiously implement a recovery or prevention strategy, which includes the development of additional water supplies and other actions, consistent with the authority granted by this chapter, to:

(a) Achieve recovery to the established minimum flow or level as soon as practicable; or

(b) Prevent the existing flow or level from falling below the established minimum flow or level.

The recovery or prevention strategy shall include phasing or a timetable which will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses, including development of additional water supplies and implementation of conservation and other efficiency measures concurrent with to the extent practical, and to offset, reductions in permitted withdrawals, consistent with the provisions of this chapter.

(3) The provisions of this section are supplemental to any other specific requirements or authority provided by law. Minimum flows and levels shall be reevaluated periodically and revised as needed.

Section 7. Subsection (6) is added to section 373.046, Florida Statutes, 1996 Supplement, to read:

373.046 Interagency agreements.—

(6) When the geographic area of a project or local government crosses water management district boundaries, the affected districts may designate a single affected district by interagency agreement to implement in that area, under the rules of the designated district, all or part of the applicable regulatory responsibilities under chapter 373. Interagency agreements entered into under this subsection which apply to the geographic area of a local government must have the concurrence of the affected local government. The application under this subsection, by rule, of any existing district rule that was adopted or formally noticed for adoption on or before May 11, 1995, is not subject to s. 70.001.

Section 8. Paragraph (a) of subsection (8) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(8)(a) At 11:59 p.m. on June 30, 1988, the area transferred from the Southwest Florida Water Management District to the St. Johns River Water Management District by change of boundaries pursuant to chapter 76-243,

Laws of Florida, shall cease to be a subdistrict or basin of the St. Johns River Water Management District known as the Oklawaha River Basin and said Oklawaha River Basin shall cease to exist. However, any recognition of an Oklawaha River Basin or an Oklawaha River Hydrologic Basin for regulatory purposes shall be unaffected. The area formerly known as the Oklawaha River Basin shall continue to be part of the St. Johns River Water Management District. There shall be established by the governing board of the St. Johns River Water Management District the Oklawaha River Basin Advisory Council to receive public input and advise the St. Johns River Water Management District's governing board on water management issues affecting the Oklawaha River Basin. The Oklawaha River Basin Advisory Council shall be appointed by action of the St. Johns River Water Management District's governing board and shall include one representative from each county which is wholly or partly included in the Oklawaha River Basin. The St. Johns River Water Management District's governing board member currently serving pursuant to s. 373.073(2)(c)3. ~~373.073(1)(b)3.c.~~, shall serve as chair of the Oklawaha River Basin Advisory Council. Members of the Oklawaha River Basin Advisory Council shall receive no compensation for their services but are entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061.

Section 9. Section 373.073, Florida Statutes, is amended to read:

373.073 Governing board.—

(1)(a) The governing board of each water management district shall be composed of 9 members who shall reside within the district, except that the Southwest Florida Water Management District shall be composed of 11 members who shall reside within the district. Members of the governing boards shall be appointed by the Governor, subject to confirmation by the Senate at the next regular session of the Legislature, and the refusal or failure of the Senate to confirm an appointment creates a vacancy in the office to which the appointment was made. The term of office for a governing board member is 4 years and commences on March 2 of the year in which the appointment is made and terminates on March 1 of the 4th calendar year of the term. Terms of office of governing board members shall be staggered to help maintain consistency and continuity in the exercise of governing board duties and to minimize disruption in district operations. The term of office of members of the board shall be 4 years and shall be construed to commence on March 2 preceding the date of appointment and to terminate March 1 of the year of the end of a term. Members of the governing boards continued under this chapter shall be appointed from the district at large as vacancies occur on the governing boards. Such vacancies shall be filled according to the residency requirements of paragraph (b).

(b) Commencing January 1, 1999, the Governor shall appoint the following number of governing board members in each year of the Governor's 4-year term of office:

1. In the first year of the Governor's term of office, the Governor shall appoint three members to the governing board of each district.

2. In the second year of the Governor's term of office, the Governor shall appoint three members to the governing board of the Southwest Florida Water Management District and two members to the governing board of each other district.

3. In the third year of the Governor's term of office, the Governor shall appoint three members to the governing board of the Southwest Florida Water Management District and two members to the governing board of each other district.

4. In the fourth year of the Governor's term of office, the Governor shall appoint two members to the governing board of each district.

For any governing board vacancy that occurs before the date scheduled for the office to be filled under this paragraph, the Governor shall appoint a person meeting residency requirements of subsection (2) for a term that will expire on the date scheduled for the term of that office to terminate under this subsection. In addition to the residency requirements for the governing boards as provided by subsection (2), the Governor shall consider appointing governing board members to represent an equitable cross-section of regional interests and technical expertise.

(2)(b) Membership on governing boards shall be selected from candidates who have significant experience in one or more of the following areas, including, but not limited to: agriculture, the development industry, local government, government-owned or privately-owned water utilities, law, civil engineering, environmental science, hydrology, accounting, or financial businesses. Notwithstanding the provisions of any other general or special law to the contrary, vacancies in the governing boards of the water management districts shall be filled according to the following residency requirements, representing areas designated by the United States Water Resources Council in United States Geological Survey, River Basin and Hydrological Unit Map of Florida—1975, Map Series No. 72:

(a)1. Northwest Florida Water Management District:

1.a. One member shall reside in the area generally designated as the "Perdido River Basin-Perdido Bay Coastal Area-Lower Conecuh River-Escambia River Basin" hydrologic units and that portion of the "Escambia Bay Coastal Area" hydrologic unit which lies west of Pensacola Bay and Escambia Bay.

2.b. One member shall reside in the area generally designated as the "Blackwater River Basin-Yellow River Basin-Choctawhatchee Bay Coastal Area" hydrologic units and that portion of the "Escambia Bay Coastal Area" hydrologic unit which lies east of Pensacola Bay and Escambia Bay.

3.c. One member shall reside in the area generally designated as the "Choctawhatchee River Basin-St. Andrews Bay Coastal Area" hydrologic units.

4.d. One member shall reside in the area generally designated as the "Lower Chattahoochee-Apalachicola River-Chipola River Basin-Coastal

Area between Ochlockonee River Apalachicola Rivers-Apalachicola Bay coastal area and offshore islands” hydrologic units.

5.e. One member shall reside in the area generally designated as the “Ochlockonee River Basin-St. Marks and Wakulla Rivers and coastal area between Aucilla and Ochlockonee River Basin” hydrologic units.

6.f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

(b)2. Suwannee River Water Management District:

1.a. One member shall reside in the area generally designated as the “Aucilla River Basin” hydrologic unit.

2.b. One member shall reside in the area generally designated as the “Coastal Area between Suwannee and Aucilla Rivers” hydrologic unit.

3.c. One member shall reside in the area generally designated as the “Withlacochee River Basin-Alapaha River Basin-Suwannee River Basin above the Withlacochee River” hydrologic units.

4.d. One member shall reside in the area generally designated as the “Suwannee River Basin below the Withlacochee River excluding the Santa Fe River Basin” hydrologic unit.

5.e. One member shall reside in the area generally designated as the “Santa Fe Basin-Waccasassa River and coastal area between Withlacochee and Suwannee River” hydrologic units.

6.f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

(c)3. St. Johns River Water Management District:

1.a. One member shall reside in the area generally designated as the “St. Mary River Basin-Coastal area between St. Marys and St. Johns Rivers” hydrologic units.

2.b. One member shall reside in the area generally designated as the “St. Johns River Basin below Oklawaha River-Coastal area between the St. Johns River and Ponce de Leon Inlet” hydrologic units.

3.c. One member shall reside in the area generally designated as the “Oklawaha River Basin” hydrologic unit.

4.d. One member shall reside in the area generally designated as the “St. Johns River Basin above the Oklawaha River” hydrologic unit.

5.e. One member shall reside in the area generally designated as the “Coastal area between Ponce de Leon Inlet and Sebastian Inlet-Coastal area Sebastian Inlet to St. Lucie River” hydrologic units.

6.f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

(d)4. South Florida Water Management District:

1.a. Two members shall reside in Dade County.

2.b. One member shall reside in Broward County.

3.c. One member shall reside in Palm Beach County.

4.d. One member shall reside in Collier County, Lee County, Hendry County, or Charlotte County.

5.e. One member shall reside in Glades County, Okeechobee County, Highlands County, Polk County, Orange County, or Osceola County.

6.f. Two members, appointed at large, shall reside in an area consisting of St. Lucie, Martin, Palm Beach, Broward, Dade, and Monroe Counties.

7.g. One member, appointed at large, shall reside in an area consisting of Collier, Lee, Charlotte, Hendry, Glades, Osceola, Okeechobee, Polk, Highlands, and Orange Counties.

8.h. No county shall have more than three members on the governing board.

(e)5. Southwest Florida Water Management District:

1.a. Two members shall reside in Hillsborough County.

2.b. One member shall reside in the area consisting of Hillsborough and Pinellas Counties.

3.c. Two members shall reside in Pinellas County.

4.d. One member shall reside in Manatee County.

5.e. One member shall reside in Polk County.

6.f. One member shall reside in Pasco County.

7.g. One member shall be appointed at large from Levy, Marion, Citrus, Sumter, Hernando, and Lake Counties.

8.h. One member shall be appointed at large from Sarasota, Hardee, DeSoto, Charlotte, and Highlands Counties.

9.i. One member shall be appointed at large from Levy, Marion, Citrus, Sumter, Hernando, Lake, Sarasota, Hardee, DeSoto, Charlotte, and Highlands Counties.

No county described in subparagraph 7., subparagraph 8., or subparagraph 9. ~~sub-subparagraphs g., h., or i.~~ shall have more than one member on the governing board.

~~(2) Members of the governing boards shall be appointed by the Governor, subject to confirmation by the Senate at the next regular session of the~~

~~Legislature, and the refusal or failure of the Senate to confirm an appointment shall create a vacancy in the office to which the appointment was made.~~

Section 10. Subsection (2), paragraph (a) of subsection (4), and subsection (5) of section 373.079, Florida Statutes, are amended to read:

373.079 Members of governing board; oath of office; staff.—

(2) Immediately after their appointment, and every 2 years thereafter, ~~members composing~~ the governing board shall meet at some convenient place and choose ~~one of their number as chair of the board,~~ and some suitable person, who may or may not be a member of the governing board, and who may be required to execute bond for the faithful performance of his or her duties as the governing board may determine, as secretary. Such board shall adopt a seal with a suitable device and shall keep a well-bound book entitled, in effect, "Record of Governing Board of District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts, which book shall at reasonable times be open to the inspection of any citizen of this state or taxpayer in the district or his or her agent or attorney.

(4)(a) The governing board of the district is authorized to employ an executive director, ombudsman, and such engineers, other professional persons, and other personnel and assistants as it deems necessary and under such terms and conditions as it may determine and to terminate such employment. The appointment of an executive director by the governing board is subject to approval by the Governor and must be initially confirmed by the Florida Senate. The governing board may delegate all or part of its authority under this paragraph to the executive director. The executive director must be confirmed by the Senate upon employment and must be confirmed or reconfirmed by the Senate during the second regular session of the Legislature following a gubernatorial election.

(5) The governing board may employ a legal staff for the purposes of:

(a) Providing legal counsel to the governing board on matters relating to the exercise of its powers and duties and to the executive director and district staff on matters relating to the day-to-day operations of the district;

(b) Representing it in all proceedings of an administrative or judicial nature; and

(c) Otherwise assisting in the administration of the provisions of this chapter.

Attorneys employed by the district must represent the legal interest or position of the governing board.

Section 11. Section 373.0831, Florida Statutes, is created to read:

373.0831 Water resource development; water supply development.—

(1) The Legislature finds that:

(a) The proper role of the water management districts in water supply is primarily planning and water resource development, but this does not preclude them from providing assistance with water supply development.

(b) The proper role of local government, regional water supply authorities, and government-owned and privately owned water utilities in water supply is primarily water supply development, but this does not preclude them from providing assistance with water resource development.

(c) Water resource development and water supply development must receive priority attention, where needed, to increase the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems.

(2) It is the intent of the Legislature that:

(a) Sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that the adverse effects of competition for water supplies be avoided.

(b) Water management districts take the lead in identifying and implementing water resource development projects, and be responsible for securing necessary funding for regionally significant water resource development projects.

(c) Local governments, regional water supply authorities, and government-owned and privately owned water utilities take the lead in securing funds for and implementing water supply development projects. Generally, direct beneficiaries of water supply development projects should pay the costs of the projects from which they benefit, and water supply development projects should continue to be paid for through local funding sources.

(d) Water supply development be conducted in coordination with water management district regional water supply planning and water resource development.

(3) The water management districts shall fund and implement water resource development as defined in s. 373.019. Each governing board shall include in its annual budget the amount needed for the fiscal year to implement water resource development projects, as prioritized in its regional water supply plans.

(4)(a) Water supply development projects which are consistent with the relevant regional water supply plans and which meet one or more of the following criteria shall receive priority consideration for state or water management district funding assistance:

1. The project supports establishment of a dependable, sustainable supply of water which is not otherwise financially feasible;

2. The project provides substantial environmental benefits by preventing or limiting adverse water resource impacts, but require funding assistance to be economically competitive with other options; or

3. The project significantly implements reuse, storage, recharge, or conservation of water in a manner that contributes to the sustainability of regional water sources.

(b) Water supply development projects which meet the criteria in paragraph (a) and also bring about replacement of existing sources in order to help implement a minimum flow or level shall be given first consideration for state or water management district funding assistance.

Section 12. Subsection (5) of section 373.139, Florida Statutes, 1996 Supplement, is amended to read:

373.139 Acquisition of real property.—

(5) Lands acquired for the purposes enumerated in subsection (2) may also be used for recreational purposes, and whenever practicable such lands shall be open to the general public for recreational uses. Except when prohibited by a covenant or condition described in s. 373.056(2), lands owned, managed, and controlled by the district may be used for multiple purposes, including, but not limited to, agriculture, silviculture, and water supply, as well as boating and other recreational uses.

Section 13. Section 373.236, Florida Statutes, is amended to read:

373.236 Duration of permits.—

(1) Permits shall may be granted for a any period of time not exceeding 20 years, if requested for that period of time, if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit; otherwise permits may be issued for shorter durations which reflect the period for which such reasonable assurances can be provided. The governing board or the department may base the duration of permits on a reasonable system of classification according to source of supply or type of use, or both.

(2) The governing board or the department may authorize a permit of duration of up to 50 years in the case of a municipality or other governmental body or of a public works or public service corporation where such a period is required to provide for the retirement of bonds for the construction of waterworks and waste disposal facilities.

(3) Where necessary to maintain reasonable assurance that the conditions for issuance of a 20-year permit can continue to be met, the governing board or department, in addition to any conditions required pursuant to s. 373.219, may require a compliance report by the permittee every 5 years during the term of a permit. This report shall contain sufficient data to maintain reasonable assurance that the initial conditions for permit issuance are met. Following review of this report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance. Permit modifications pursuant to this subsection shall not be subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district. This subsection shall not be

construed to limit the existing authority of the department or the governing board to modify or revoke a consumptive use permit.

Section 14. By January 1, 1998, the Department of Environmental Protection, in coordination with the appropriate water management districts and the Department of Health, shall transmit to the Speaker of the House of Representatives, the President of the Senate, and the Governor a proposal for reevaluating areas of the state which were previously delineated by the Department of Environmental Protection pursuant to s. 376.309(1)(e), Florida Statutes, as having contaminated water supplies, including contamination from ethylene dibromide, in order to ascertain whether or not the contamination has been reduced to levels which do not pose a threat to human health and to determine if the delineated areas should be redrawn or removed. The proposal shall reflect a systematic approach to the reevaluation, with an emphasis on determining the current state of contamination, potential remedies, the adequacy of existing remedies such as requirements for grouting of well-casing, and relief to affected citizens. The proposal shall also include estimates of cost and recommendations as to available funding sources for the reevaluation. Any deletion from, addition to, or redrawing of the delineation areas shall be based on the scientific evidence of the reevaluation conducted under this subparagraph.

Section 15. Effective October 1, 1997, section 373.507, Florida Statutes, is amended to read:

373.507 Districts and basins; postaudits, budgets, basins, and taxing authorities; budget and expense reports; audits.—

(1) Each district and basin referred to in this chapter must shall furnish a detailed copy of its budget and past year's expenditures to the Governor, the Legislature, and the governing body of each county in which the district or basin has jurisdiction or derives any funds for the operations of the district or basin.

(2) Each district and basin referred to in this chapter must, basin, and taxing authority shall make provision for an annual postaudit of its financial accounts. The postaudit must These postaudits shall be made in accordance with the rules of the Auditor General adopted under promulgated pursuant to ss. 166.241 and 11.47.

(3)(a) Each district referred to in this chapter must furnish copies of the following documents to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over districts, as determined by the President or Speaker as applicable, the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district:

1. The tentative budget.
2. The adopted budget.
3. The past year's expenditures.

4. The postaudit described in subsection (2).

(b) The documents must be furnished by the earlier of 10 days following completion of each document or as otherwise provided by law.

(c) If any entity in paragraph (a) provides written comments to the district regarding any document furnished, the district must respond to the comments in writing and furnish copies of the comments and written responses to the other entities.

Section 16. Effective October 1, 1997, subsections (1) and (3), and paragraphs (a) and (c) of subsection (5), of section 373.536, Florida Statutes, 1996 Supplement, are amended to read:

373.536 District budget and hearing thereon.—

(1) The fiscal year of districts created under the provisions of this chapter shall extend from October 1 of one year through September 30 of the following year. The budget officer of the district shall, on or before July 15 of each year, submit for consideration by the governing board of the district a tentative budget for the district covering its proposed operation and requirements for the ensuing fiscal year. Unless alternative notice requirements are otherwise provided by law, notice of all budget hearings conducted by the governing board or district staff must be published in a newspaper of general circulation in each county in which the district lies not less than 5 days nor more than 15 days before the hearing. Budget workshops conducted for the public and not governed by s. 200.065 must be advertised in a newspaper of general circulation in the community or area in which the workshop will occur not less than 5 days nor more than 15 days before the workshop. The tentative budget shall be adopted in accordance with the provisions of s. 200.065; however, if the mailing of the notice of proposed property taxes is delayed beyond September 3 in any county in which the district lies, the district shall advertise its intention to adopt a tentative budget and millage rate, pursuant to s. 200.065(3)(g), in a newspaper of general paid circulation in that county. The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the district for bonds or other debt, for construction, for acquisition of land, for operation and maintenance of the district works, for the conduct of the affairs of the district generally, and for other purposes, to which may be added an amount to be held as a reserve. District administrative and operating expenses must be identified in the budget and allocated among district programs.

(3) As provided in s. 200.065(2)(d), the board shall publish one or more notices of its intention to finally adopt a budget for the district for the ensuing fiscal year. The notice shall appear adjacent to an advertisement which shall set forth the tentative budget in full. The notice and advertisement shall be published in one or more newspapers having a combined general circulation in the counties having land in the district. Districts may include explanatory phrases and examples in budget advertisements published under s. 200.065 to clarify or illustrate the effect that the district budget may have on ad valorem taxes.

(5)(a) The Executive Office of the Governor is authorized to approve or disapprove, in whole or in part, the budget of each water management district and shall analyze each budget as to the adequacy of fiscal resources available to the district and the adequacy of district expenditures related to water supply, including water resource development projects identified in the district's regional water supply plans; water quality; flood protection and floodplain management; and natural systems. This analysis shall be based on the particular needs within each water management district in those four areas of responsibility.

(c) Each water management district shall, by August 15 of each year, submit for review a tentative budget to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over water management districts, the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district. The tentative budget, which must include to the Department of Environmental Protection, the Executive Office of the Governor, and the chairs of the appropriations committees of the Legislature for review a tentative budget that includes, but is not limited to, the following information for the preceding fiscal year and the current fiscal year, and the proposed amounts for the upcoming fiscal year, in a standard format prescribed by the Executive Office of the Governor department which is generally consistent with the format prescribed by legislative budget instructions for state agencies and the format requirements of s. 216.031:

1. The millage rates and the percentage increase above the rolled-back rate, together with a summary of the reasons the increase is required, and the percentage increase in taxable value resulting from new construction;

2. For each program area, The salary and benefits, expenses, operating capital outlay, number of authorized positions, and other personal services for the following program areas, including a separate section for lobbying, intergovernmental relations, and advertising;:

- a. District management and administration;
- b. Implementation through outreach activities;
- c. Implementation through regulation;
- d. Implementation through acquisition, restoration, and public works;
- e. Implementation through operations and maintenance of lands and works;
- f. Water resources planning and monitoring; and
- g. A full description and accounting of expenditures for lobbying activities relating to local, regional, state, and federal governmental affairs, whether incurred by district staff or through contractual services and all expenditures for public relations, including all expenditures for public service announcements and advertising in any media.

In addition to the program areas reported by all water management districts, the South Florida Water Management District shall include in its budget document a separate section on all costs associated with the Everglades Construction Project.

3. The total amount in the district budget for each area of responsibility listed in paragraph (a) and for water resource development projects identified in the district's regional water supply plans.

~~4.3.~~ A description of each new, expanded, reduced, or eliminated program.;

5. A proposed five-year water resource development work program, that describes the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised pursuant to s. 373.0361. The work program shall address all the elements of the water resource development component in the district's approved regional water supply plans. The Office of the Governor, with the assistance of the department, shall review the proposed work program. The review shall include a written evaluation of its consistency with and furtherance of the district's approved regional water supply plans, and adequacy of proposed expenditures. As part of the review, the Executive Office of the Governor and the department shall afford to all interested parties the opportunity to provide written comments on each district's proposed work program. At least seven days prior to the adoption of its final budget, the governing board shall state in writing to the Executive Office of the Governor which changes recommended in the evaluation it will incorporate into its work program, or specify the reasons for not incorporating the changes. The Office of the Governor shall include the district's responses in the written evaluation and shall submit a copy of the evaluation to the Legislature; and

6.5. The funding sources, including, but not limited to, ad valorem taxes, Surface Water Improvement and Management Program funds, other state funds, federal funds, and user fees and permit fees for each program area.

~~(d) The department shall, by September 5 of the year in which the budget is submitted, after taking into account continuing and proposed program needs, provide its review and comments to the governing board and the Governor. By September 5 of the year in which the budget is submitted, the Executive Office of the Governor and the House and Senate appropriations chairs may transmit to each district comments and objections to the proposed budgets. Each district governing board shall include a response to such comments and objections in the record of the governing board meeting where final adoption of the budget takes place, and the record of this meeting shall be transmitted to the Executive Office of the Governor, the department, and the chairs of the House and Senate appropriations committees.~~

(e) The Executive Office of the Governor department shall annually, on or before December 15, file with the Governor and the Legislature a report that summarizes the expenditures of the water management districts by program area and identifies the districts that are not in compliance with the reporting requirements of this section. State funds shall be withheld from

a water management district that fails to comply with these reporting requirements.

Section 17. Subsection (1) and paragraph (a) of subsection (4) of section 373.59, Florida Statutes, 1996 Supplement, are amended to read:

373.59 Water Management Lands Trust Fund.—

(1) There is established within the Department of Environmental Protection the Water Management Lands Trust Fund to be used as a nonlapsing fund for the purposes of this section. The moneys in this fund are hereby continually appropriated for the purposes of land acquisition, management, maintenance, capital improvements, payments in lieu of taxes, and administration of the fund in accordance with the provisions of this section. ~~In addition, for fiscal year 1995-1996, moneys in the fund that are not revenues from the sale of any bonds and that are not required for debt service for any bond issue may be used to fund activities authorized under the Surface Water Improvement and Management Act, pursuant to ss. 373.451-373.4595, and for the control of aquatic weeds pursuant to part II of chapter 369.~~ Up to 25 percent of the moneys in the fund may be allocated annually to the districts for management, maintenance, and capital improvements pursuant to subsection ~~(8)~~ (7).

(4)(a) Moneys from the Water Management Lands Trust Fund shall be used for acquiring the fee or other interest in lands necessary for water management, water supply, and the conservation and protection of water resources, except that such moneys shall not be used for the acquisition of rights-of-way for canals or pipelines. Such moneys shall also be used for management, maintenance, and capital improvements. Interests in real property acquired by the districts under this section may be used for permittable water resource development and water supply development purposes under the following conditions: the minimum flows and levels of priority water bodies on such lands have been established; the project complies with all conditions for issuance of a permit under part II of chapter 373; and the project is compatible with the purposes for which the land was acquired. Lands acquired with moneys from the fund shall be managed and maintained in an environmentally acceptable manner and, to the extent practicable, in such a way as to restore and protect their natural state and condition.

Section 18. Paragraph (b) of subsection (4) of section 186.007, Florida Statutes, is amended to read:

186.007 State comprehensive plan; preparation; revision.—

(4)

(b) The purpose of the growth management portion of the state comprehensive plan is to establish clear, concise, and direct goals, objectives, and policies related to land development, water resources, transportation, and related topics. In doing so, the plan should, where possible, draw upon the work that agencies have invested in the state land development plan, the Florida Transportation Plan, the Florida water state water use plan, and similar planning documents.

Section 19. Paragraph (n) of subsection (2) of section 186.009, Florida Statutes, is amended to read:

186.009 Growth management portion of the state comprehensive plan.—

(2) The growth management portion of the state comprehensive plan shall:

(n) Set forth recommendations on how to integrate the Florida water state water use plan required by s. 373.036, the state land development plan required by s. 380.031(17), and transportation plans required by chapter 339.

The growth management portion of the state comprehensive plan shall not include a land use map.

Section 20. Subsections (1) and (7) of section 373.103, Florida Statutes, are amended to read:

373.103 Powers which may be vested in the governing board at the department's discretion.—In addition to the other powers and duties allowed it by law, the governing board of a water management district may be specifically authorized by the department to:

(1) Administer and enforce all provisions of this chapter, including the permit systems established in parts II, III, and IV of this chapter, consistent with the state water resource implementation rule policy.

(7) Prepare, in cooperation with the department, that part of the Florida water state water use plan applicable to the district.

Section 21. Subsection (2) of section 373.114, Florida Statutes, is amended to read:

373.114 Land and Water Adjudicatory Commission; review of district rules and orders; department review of district rules.—

(2) The department shall have the exclusive authority to review rules of the water management districts, other than rules relating to internal management of the districts, to ensure consistency with the state water resource implementation rule policy as set forth in the rules of the department. Within 30 days after adoption or revision of any water management district rule, the department shall initiate a review of such rule pursuant to this section.

(a) Within 30 days after adoption of a rule, any affected person may request that a hearing be held before the secretary of the department, at which hearing evidence and argument may be presented relating to the consistency of the rule with the state water resource implementation rule policy, by filing a request for hearing with the department and serving a copy on the water management district.

(b) If the department determines that the rule is inconsistent with the state water resource implementation rule policy, it may order the water

management district to initiate rulemaking proceedings to amend or repeal the rule.

(c) An order of the department requiring amendment or repeal of a rule may be appealed to the Land and Water Adjudicatory Commission by the water management district or any other party to the proceeding before the secretary.

Section 22. Subsection (3) of section 373.418, Florida Statutes, is amended to read:

373.418 Rulemaking; preservation of existing authority.—

(3) The department or governing boards may adopt such rules as are necessary to implement the provisions of this part. Such rules shall be consistent with the state water resource implementation rule policy and shall not allow harm to water resources or be contrary to the policy set forth in s. 373.016.

Section 23. Subsection (2) of section 373.456, Florida Statutes, is amended to read:

373.456 Approval of surface water improvement and management plans.—

(2) The department shall have the exclusive authority to review the plan to ensure consistency with the state water resource implementation rule policy and the State Comprehensive Plan.

Section 24. Subsection (14) of section 403.031, Florida Statutes, 1996 Supplement, is amended to read:

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(14) “State water resource implementation rule policy” means the rule authorized by s. 373.036, which sets comprehensive statewide policy as adopted by the department pursuant to ss. 373.026 and 403.061, setting forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The waters of the state are among its most basic resources. Such waters should be managed to conserve and protect water resources and to realize the full beneficial use of these resources.

Section 25. Subsection (1) and paragraph (a) of subsection (3) of section 403.0891, Florida Statutes, are amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.

(1) The department shall include goals in the state water resource implementation rule policy for the proper management of stormwater.

(3)(a) Each local government required by chapter 163 to submit a comprehensive plan, whose plan is submitted after July 1, 1992, and the others when updated after July 1, 1992, in the development of its stormwater management program described by elements within its comprehensive plan shall consider the state water resource implementation rule policy, district stormwater management goals, plans approved pursuant to the Surface Water Improvement and Management Act, ss. 373.451-373.4595, and technical assistance information provided by the water management districts pursuant to s. 373.0391.

Section 26. Subsection (10) of section 373.026, section 373.039, and subsection (33) of section 403.061, Florida Statutes, are repealed.

Section 27. Effective January 1, 1999, section 373.0735, Florida Statutes, is repealed.

Section 28. Nothing in sections 5 and 6 of this act shall be construed to:

(1) Modify the order or dates by which the Southwest Florida Water Management District will establish minimum flows and levels for water bodies in Hillsborough, Pasco, and Pinellas counties as listed pursuant to chapter 96-339, Laws of Florida.

(2) Modify the peer review process for the establishment of minimum flows and levels in Hillsborough, Pasco, and Pinellas counties created by chapter 96-339, Laws of Florida.

As it relates only to the counties of Hillsborough, Pasco, and Pinellas, in the event of conflict between section 373.0421(2), Florida Statutes, created by this act and statutory and case law existing immediately prior to the effective date of this act, the prior law shall govern; provided, however, that the establishment and implementation of minimum flows for the Hillsborough River and the Palm River/Tampa By-Pass Canal shall be governed by sections 5 and 6 of this act.

Section 29. Present subsections (3), (4), (5), (6), and (7) of section 373.1962, Florida Statutes, are redesignated as subsections (4), (5), (6), (7), and (8), respectively, and a new subsection (3) is added to that section, to read:

373.1962 Regional water supply authorities.—

(3) A regional water supply authority is authorized to develop, construct, operate, maintain, or contract for alternative sources of potable water, including desalinated water, and pipelines to interconnect authority sources and facilities, either by itself or jointly with a water management district; however, such alternative potable water sources, facilities, and pipelines may also be privately developed, constructed, owned, operated, and maintained, in which event an authority and a water management district are authorized to pledge and contribute their funds to reduce the wholesale cost

of water from such alternative sources of potable water supplied by an authority to its member governments.

Section 30. Subsection (1) of section 373.1963, Florida Statutes, is amended to read:

373.1963 Assistance to West Coast Regional Water Supply Authority.—

(1) It is the intent of the Legislature to encourage and facilitate the implementation of changes in governance recommended by the West Coast Regional Water Supply Authority in its report to the Legislature dated February 1, 1997. The authority shall submit a supplemental report to the President of the Senate and the Speaker of the House of Representatives on the status of implementing its prior recommendations for changes in governance by January 5, 1998. The authority may reconstitute its governance in a manner consistent with its report to the Legislature, and with the provisions set forth herein, under a voluntary interlocal agreement with a term of not less than 20 years, which substantially provides as follows:

(a) The authority and its member governments agree that cooperative efforts are mandatory to meet their water needs in a manner that will provide adequate and dependable supplies of water where needed without resulting in adverse environmental effects upon the areas from which the water is withdrawn or otherwise produced.

(b) To the extent provided in the interlocal agreement, and to the extent permitted by law:

1. All member governments shall relinquish to the authority their individual rights to develop potable water supply sources;

2. The authority shall be the sole and exclusive wholesale potable water supplier for all member governments; and

3. The authority shall have the absolute and unequivocal obligation to meet the wholesale needs of the member governments for potable water.

(c) The authority shall acquire full or lesser interests in all regionally significant member government wholesale water supply facilities and tangible assets and each member government shall convey such interests in the facilities and assets to the authority, at an agreed value.

(d) The authority shall charge a uniform per gallon wholesale rate to member governments for the wholesale supply of potable water. All capital, operation, maintenance, and administrative costs for existing facilities and acquired facilities, authority master water plan facilities, and other future projects must be allocated to member governments based on water usage at the uniform per gallon wholesale rate.

(e) To the extent provided in the interlocal agreement and to the extent permitted by law, member governments shall develop procedures for resolving their differences regarding water management district proposed agency action in the water use permitting process within the authority. Such procedures should minimize the potential for litigation and include alternative

dispute resolution. Nothing herein or in said procedures shall affect the rights of participants under chapter 120.

(f) Upon execution of the voluntary interlocal agreement provided for herein, the authority shall jointly develop with the Southwest Florida Water Management District alternative sources of potable water and transmission pipeline to interconnect regionally significant water supply sources and facilities of the authority in amounts sufficient to meet the needs of all member governments for a period of at least 20 years and for natural systems. Nothing herein, however, shall preclude the authority and its member governments from developing traditional water sources pursuant to the voluntary interlocal agreement. Development and construction costs for alternative source facilities, which may include a desalination facility and significant regional interconnects, must be borne as mutually agreed to by both the authority and the Southwest Florida Water Management District. Nothing herein shall preclude authority or district cost-sharing with private entities for the construction or ownership of alternative source facilities. By December 31, 1997, the authority and the Southwest Florida Water Management District shall:

1. Enter into a mutually acceptable agreement detailing the development and implementation of directives contained in this paragraph; or

2. Jointly prepare and submit to the President of the Senate and the Speaker of the House of Representatives a report describing the progress made and impediments encountered in their attempts to implement the water resource development and water supply development directives contained in this paragraph.

Nothing in this subsection shall be construed to modify the rights or responsibilities of the Authority, its member governments or the Southwest Florida Water Management District as otherwise set forth by statutes.

(g) Unless otherwise provided in the interlocal agreement, the authority shall be governed by a Board of Commissioners consisting of 9 voting members, all of whom must be elected officers, as follows:

1. Three members from Hillsborough County who must be selected by the county commission, provided, however, that one members hall be selected by the Mayor of Tampa in the event that the City of Tampa elects to be a member of the authority;

2. Three members from Pasco County, two of whom must be selected by the county commission and one of whom must be selected by the City Council of New Port Richey;

3. Three members from Pinellas County, two of whom must be selected by the county commission and one of whom must be selected by the City Council of St. Petersburg.

Except as otherwise provided in this section or in the voluntary interlocal agreement between the member governments, a majority vote shall bind the

authority and its member governments in all matters relating to the funding of wholesale water supply, production, delivery, and related activities.

~~(1) It is the intent of the Legislature that the West Coast Regional Water Supply Authority established pursuant to s. 373.1962 shall develop an evaluation and recommendation of the following:~~

~~(a) Authority membership and voting;~~

~~(b) Funding options and implementation, including membership responsibility apportionment;~~

~~(c) A water supply development plan based on a 20-year planning horizon;~~

~~(d) Facilities ownership and management;~~

~~(e) Governing board membership, terms, responsibilities, and officers; and~~

~~(f) Utilization of .10 mills of basin board ad valorem taxing authority, were the Legislature or the water management district to make such funding available to the authority.~~

~~The authority shall submit a report to the Speaker of the House of Representatives and the President of the Senate on the elements described in this subsection by February 1, 1997. This report may include proposed necessary statutory amendments to implement the recommendations of the authority.~~

Section 31. Paragraph (e) of subsection (1) of section 376.307, Florida Statutes, 1996 Supplement, is amended to read:

376.307 Water Quality Assurance Trust Fund.—

(1) The Water Quality Assurance Trust Fund is intended to serve as a broad-based fund for use in responding to incidents of contamination that pose a serious danger to the quality of groundwater and surfacewater resources or otherwise pose a serious danger to the public health, safety, or welfare. Moneys in this fund may be used:

(e) To restore or replace contaminated private potable water wells or water systems. However, funds used as provided in this paragraph must be expended for water supply systems or filters for contaminated potable water wells only as follows:

1. Persons who have contaminated potable water wells that were permitted and constructed after January 1, 1989, in accordance with standards adopted under s. 373.309 are eligible for:

a. Subsidies to connect to existing water supply systems or extensions thereof. However, the subsidy may not exceed the present worth of the 10-year cost of providing and maintaining filters for residents served by the connections; or

b. Filters and filter maintenance to provide treatment for water from contaminated wells sufficient to ensure its potability. However, a filter may not be provided for a potable water well designed to provide water to a household that is part of a subdivision or development of a size that would, according to the department, be more effectively served by a water supply system, if the subdivision or development received its development order after January 1, 1989.

2. Subsidies to develop new water supply systems to be permitted and constructed after January 1, 1989, in accordance with standards adopted pursuant to s. 373.309 because of actual or potential contamination of potable water wells. However, a subsidy may not exceed one-half of the present worth of the 10-year cost of providing and maintaining filters for the residents to be served by the system.

3. The most cost-effective remedy, as determined by the department, for wells drilled before January 1, 1989.

4. Persons permitting and constructing potable water wells on or after July 1, 1997, in accordance with standards adopted pursuant to s. 373.309 because of actual or potential contamination, may be eligible for:

a. Subsidies or filters as identified in sub-subparagraphs 1.a. and b.; or

b. Subsidies for any increased costs associated with potable water well construction pursuant to s. 373.309(1)(e)4., provided that no such subsidy shall exceed one-half the cost of the well including testing, or one-half the present worth of the 10-year cost of providing and maintaining filters for the residents to be served by said well, whichever is less, provided that the household is not part of a subdivision or development of a size that would, according to the department, be more effectively served by a water supply system, if such subdivision or development received its development order on or after July 1, 1997.

Section 32. Paragraph (e) of subsection (1) of section 373.309, Florida Statutes, 1996 Supplement, is amended to read:

373.309 Authority to adopt rules and procedures.—

(1) The department shall adopt, and may from time to time amend, rules governing the location, construction, repair, and abandonment of water wells and shall be responsible for the administration of this part. With respect thereto, the department shall:

(e) Encourage prevention of potable water well contamination and promote cost-effective remediation of contaminated potable water supplies by use of the Water Quality Assurance Trust Fund as provided in s. 376.307(1)(e) and establish by rule:

1. Delineation of areas of groundwater contamination for implementation of well location and construction, testing, permitting, and clearance requirements as set forth in subparagraphs 2., 3., 4., 5., and 6. The department shall make available to water management districts, regional planning councils, the Department of Health and ~~Rehabilitative Services~~, and

county building and zoning departments, maps or other information on areas of contamination, including areas of ethylene dibromide contamination. Such maps or other information shall be made available to property owners, realtors, real estate associations, property appraisers, and other interested persons upon request and upon payment of appropriate costs.

2. Requirements for testing for suspected contamination in areas of known contamination, as a prerequisite for clearance of a water well for drinking purposes. The department is authorized to establish criteria for acceptance of water quality testing results from the Department of Health and laboratories certified by the Department of Health, and is authorized to establish requirements for sample collection quality assurance.

3. Requirements for mandatory connection to available potable water systems in areas of known contamination, wherein the department may prohibit the permitting and construction of new potable water wells.

4. Location and construction standards for public and all other potable water wells permitted in areas of contamination. Such standards shall be designed to minimize the effects of such contamination.

5. A procedure for permitting all potable water wells in areas of known contamination. Any new water well that is to be used for drinking water purposes and that does not meet construction standards pursuant to subparagraph 4. must be abandoned and plugged by the owner. Water management districts shall implement, through delegation from the department, the permitting and enforcement responsibilities of this subparagraph.

6. A procedure for clearing for use all potable water wells, except wells that serve a public water supply system, in areas of known contamination. If contaminants are found upon testing pursuant to subparagraph 2., a well may not be cleared for use without a filter or other means of preventing the users of the well from being exposed to deleterious amounts of contaminants. ~~The Department of Health and Rehabilitative Services~~ shall implement the responsibilities of this subparagraph.

7. Fees to be paid for well construction permits and clearance for use. The fees shall be based on the actual costs incurred by the water management districts, ~~the Department of Health and Rehabilitative Services~~, or other political subdivisions in carrying out the responsibilities related to potable water well permitting and clearance for use. The fees shall provide revenue to cover all such costs and shall be set according to the following schedule:

- a. The well construction permit fee may not exceed \$500.
- b. The clearance fee may not exceed \$50.

8. Procedures for implementing well-location, construction, testing, permitting, and clearance requirements as set forth in subparagraphs 2.-6. within areas that research or monitoring data indicate are vulnerable to contamination with nitrate, or areas in which the department provides a subsidy for restoration or replacement of contaminated drinking water supplies through extending existing water lines or developing new water supply

systems pursuant to s. 376.307(1)(e). The department shall consult with the Florida Ground Water Association in the process of developing rules pursuant to this subparagraph.

All fees and funds collected by each delegated entity pursuant to this part shall be deposited in the appropriate operating account of that entity.

Section 33. (1) As used in this section, "severance pay" means the actual or constructive compensation, in salary, benefits, or perquisites, of an officer or employee of a water management district, or any subdivision or agency thereof, for employment services yet to be rendered for a term greater than 4 weeks before or immediately following termination of employment. The term does not include:

(a) Earned and accrued annual, sick, compensatory, and administrative leave.

(b) Early retirement provisions established in an actuarially funded pension plan subject to part VII of chapter 112, Florida Statutes.

(2) After July 1, 1997, a water management district, or any agency or subdivision thereof, may not pay to any of its officers or employees severance pay, except under any of the following conditions:

(a) The severance pay is authorized in an employment contract or collective bargaining agreement providing for it and in effect on July 1, 1997. Collective bargaining agreements or employment contracts extended or entered on or after July 1, 1997, may not contain any provision for severance pay. However, employees classified as managerial, executive, or exempt in the district's personnel plan who serve at the convenience of the district are subject to the provisions of this section beginning July 1, 1997.

(b) The severance pay is paid from wholly private funds available to the district in the ordinary course of business, the payment and receipt of which would not otherwise violate any provision of part III of chapter 112, Florida Statutes.

(c) The severance pay is administered under the auspices of part II of chapter 112, Florida Statutes, on behalf of an agency outside this state and would be permitted under that agency's personnel system.

(d) The severance pay represents the settlement of an employment dispute; however, such a settlement may not contain any provisions that limit the ability of any party to the settlement to discuss the dispute or settlement.

(3) This section does not operate to create an entitlement to severance pay in the absence of its authorization by a water management district.

Section 34. (1) The Legislature finds that there currently exist actual or perceived differences in the salaries of certain water management district employees and the salaries of state or other general-purpose local government employees performing the same or similar job functions. The Legislature further finds that section 373.079(4) and (5), Florida Statutes, provide

the governing boards of the water management districts significant discretion in determining the compensation of its employees.

(2) The Legislature directs the Office of Program Policy Analysis and Government Accountability to prepare or cause to be prepared with consultants a study of water management district employee compensation plans and present its findings and recommendations in a report to remedy any actual or perceived discrepancies between the salaries of state or other general purpose local government employees and employees of the water management districts created pursuant to chapter 372. The report shall be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 30, 1998.

(3) There is hereby appropriated \$50,000 from the Water Management Lands Trust Fund for fiscal year 1997-98 to the Office of Program Policy Analysis and Government Accountability to implement the provisions relating to the employee compensation study.

Section 35. Subsection (6) of section 373.250, Florida Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(6) Each water management district shall submit to the Legislature, by ~~June 1~~ January 30 of each year, an annual report which describes the district's progress in promoting the reuse of reclaimed water. The report shall include, but not be limited to:

(a) The number of permits issued during the year which required reuse of reclaimed water and, by categories, the percentages of reuse required.

(b) The number of permits issued during the year which did not require the reuse of reclaimed water and, of those permits, the number which reasonably could have required reuse.

(c) In the second and subsequent annual reports, a statistical comparison of reuse required through consumptive use permitting between the current and preceding years.

(d) A comparison of the volume of reclaimed water available in the district to the volume of reclaimed water required to be reused through consumptive use permits.

(e) A comparison of the volume of reuse of reclaimed water required in water resource caution areas through consumptive use permitting to the volume required in other areas in the district through consumptive use permitting.

(f) An explanation of the factors the district considered when determining how much, if any, reuse of reclaimed water to require through consumptive use permitting.

(g) A description of the district's efforts to work in cooperation with local government and private domestic wastewater treatment facilities to in-

crease the reuse of reclaimed water. The districts, in consultation with the department, shall devise a uniform format for the report required by this subsection and for presenting the information provided in the report.

Section 36. Paragraph (c) is added to subsection (7) of section 253.03, Florida Statutes, 1996 Supplement, to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(7)

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to chapter 18-21.00405, Florida Administrative Code, shall be allowed to apply for an extension of such lease, regardless of the fact that the present landholder is not an adjacent riparian landowner.

Section 37. Paragraph (b) of subsection (4) of section 370.06, Florida Statutes, 1996 Supplement, is added to read:

370.06 Licenses.—

(4) SPECIAL ACTIVITY LICENSES.—

(a) Any person who seeks to use special gear or equipment in harvesting saltwater species must purchase a special activity license as specified by law to engage in such activities. The department may issue special activity licenses, in accordance with s. 370.071, to permit the cultivation of oysters, clams, mussels, and crabs when such aquaculture activities relate to quality control, sanitation, and public health regulations. The department may prescribe by rule special terms, conditions, and restrictions for any special activity license.

(b) The department is authorized to issue special activity licenses in accordance with s. 370.06 and s. 370.31, to permit the importation, possession, and aquaculture of anadromous sturgeon. The special activity license shall provide for best management practices to prevent the release and escape of cultured anadromous sturgeon and to protect indigenous populations of saltwater species from sturgeon-borne disease.

Section 38. Subsections (3) and (4) of section 370.092, Florida Statutes, 1996 Supplement, are amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(3)(a) It shall be a major violation pursuant to this section and shall be punished as provided in subsection (4) for any person, firm, or corporation to be simultaneously in possession of any species of mullet in excess of the recreational daily bag limit and any gill or other entangling net as defined in s. 16(c), Art. X of the State Constitution. Simultaneous possession under this provision shall include possession of mullet and gill or other entangling nets on separate vessels or vehicles where such vessels or vehicles are

operated in coordination with one another including vessels towed behind a main vessel. This subsection does not prohibit a resident of this state from transporting on land, from Alabama to this state, a commercial quantity of mullet together with a gill net if:

1. The person possesses a valid commercial fishing license that is issued by the State of Alabama and that allows the person to use a gill net to legally harvest mullet in commercial quantities from Alabama waters.

2. The person possesses a trip ticket issued in Alabama and filled out to match the quantity of mullet being transported, and the person is able to present such trip ticket immediately upon entering this state.

3. The mullet are to be sold to a wholesale saltwater products dealer located in Escambia County or Santa Rosa County, which dealer also possesses a valid seafood dealer's license issued by the State of Alabama. The dealer's name must be clearly indicated on the trip ticket.

4. The mullet being transported are totally removed from any net also being transported.

(b) It shall be a major violation pursuant to this section for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.

(4)(a) In addition to being subject to the other penalties provided in this chapter, any violation of s. 16, Art. X of the State Constitution, paragraph (3)(a), or any rules of the Marine Fisheries Commission which implement the gear prohibitions and restrictions specified therein shall be considered a major violation; and any person, firm, or corporation receiving any judicial disposition other than acquittal or dismissal of such violation shall be subject to the following additional penalties:

1. For a first major violation within a 7-year period, a civil penalty of \$2,500 and suspension of all saltwater products license privileges for 90 calendar days following final disposition shall be imposed.

2. For a second major violation under this paragraph charged within 7 years of a previous judicial disposition, which results in a second judicial disposition other than acquittal or dismissal, a civil penalty of \$5,000 and suspension of all saltwater products license privileges for 12 months shall be imposed.

3. For a third and subsequent major violation under this paragraph, charged within a 7-year period, resulting in a third or subsequent judicial disposition other than acquittal or dismissal, a civil penalty of \$5,000, lifetime revocation of the saltwater products license, and forfeiture of all gear and equipment used in the violation shall be imposed.

A court may suspend, defer or withhold adjudication of guilt or imposition of sentence only for any first violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, determined by a

court only after consideration of competent evidence of mitigating circumstances to be a nonflagrant or minor violation of those restrictions upon the use of nets. Any violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, occurring within a 7-year period commencing upon the conclusion of any judicial proceeding resulting in any outcome other than acquittal shall be punished as a second, third, or subsequent violation accordingly.

(b) During the period of suspension or revocation of saltwater license privileges under this section, the licensee may not participate in the taking or harvesting or attempt the taking or harvesting of saltwater products from any vessel within the waters of the state, or any other activity requiring a license, permit, or certificate issued pursuant to this chapter. Any person who violates this paragraph is:

1. Upon a first or second conviction, to be punished as provided by s. 370.021(2)(a) and (b).

2. Upon a third or subsequent conviction, guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Upon reinstatement of saltwater license privileges suspended pursuant to a violation of this section, a licensee owning or operating a vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net, or containing or otherwise transporting in nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall remain restricted for a period of 12 months following reinstatement, to operation under the following conditions:

1. Vessels subject to this reinstatement period shall be restricted to the corridors established by department rule.

2. A violation of the reinstatement period provisions shall be punishable pursuant to s. 370.021(2)(a) and (b).

(d) Rescission and revocation proceedings under this section shall be governed by chapter 120.

Section 39. Section 370.093, Florida Statutes, is created to read:

370.093 Illegal use of nets.—

(1) It is unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net that is not consistent with the provisions of s. 16, Art. X of the State Constitution.

(2)(a) Beginning July 1, 1998, it is also unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net, as defined in subsection (3) and any attachments to such net, that combined are larger than 500 square feet and have not been expressly authorized for such use by rule of the Marine Fisheries Commission under s. 370.027. The use of currently legal shrimp trawls and purse seines outside nearshore and inshore Florida waters shall continue to be legal until the Commission implements rules regulating those types of gear.

(b) The use of gill or entangling nets of any size is prohibited, as such nets are defined in s. 16, Art. X of the State Constitution. Any net constructed wholly or partially of monofilament or multifilament material, other than a hand thrown cast net, or a hand-held landing or dip net, shall be considered to be an entangling net within the prohibition of S. 16, Art. X of the state constitution unless specifically authorized by rule of the commission. Multifilament material shall not be defined to include nets constructed of braided or twisted nylon, cotton, linen twine, or polypropylene twine.

(c) This subsection shall not be construed to apply to aquaculture activities licenses issued pursuant to s. 370.26.

(3) As used in s. 16, Art. X of the State Constitution and this subsection, the term "net" or "netting" must be broadly construed to include all manner or combination of mesh or webbing or any other solid or semi-solid fabric or other material used to comprise a device that is used to take or harvest marine life.

(4) Upon the arrest of any person for violation of this subsection, the arresting officer shall seize the nets illegally used. Upon conviction of the offender, the arresting authority shall destroy the nets.

(5) Any person who violates this section shall be punished as provided in s. 370.092(4).

(6) The Marine Fisheries Commission is granted authority to adopt rules pursuant to ss. 370.025 and 370.027 implementing the prohibitions and restrictions of s. 16, Art. X of the State Constitution.

Section 40. Subsection (8) of section 370.14, Florida Statutes, 1996 Supplement, is amended to read:

370.14 Crawfish; regulation.—

(8)(a) By a special permit granted by the Division of Law Enforcement, a Florida-licensed seafood dealer may lawfully import, process, and package saltwater crawfish or uncooked tails of the species *Panulirus argus* during the closed season. However, crawfish landed under special permit shall not be sold in the state.

(b) The licensed seafood dealer importing any such crawfish under the permit shall, 12 hours prior to the time the seagoing vessel or airplane delivering such imported crawfish enters the state, notify the Division of Law Enforcement as to the seagoing vessel's name or the airplane's registration number and its captain, location, and point of destination.

(c) At the time the crawfish cargo is delivered to the permit holder's place of business, the crawfish cargo shall be weighed ~~in the presence of the marine patrol officer, and shall be available for inspection by the Department of Environmental Protection.~~ A signed receipt of such quantity in pounds shall be forwarded furnished to said officer, which receipt shall be filed by the marine patrol officer with the Division of Law Enforcement's local Florida Marine Patrol office within 48 hours after shipment weigh-in

completion. If requested by the department, the weigh-in process will be delayed up to 4 hours to allow for a department representative to be present during the process Enforcement.

(d) ~~Within 48 hours after shipment weigh-in completion from the time the receipt is given to the marine patrol officer,~~ the permit holder shall submit to the Division of Law Enforcement, on forms provided by the division, a sworn report of the quantity in pounds of the saltwater crawfish received, which report shall include the location of said crawfish and a sworn statement that said crawfish were taken at least 50 miles from Florida's shoreline. The landing of crawfish or crawfish tails from which the eggs, swimmerettes, or pleopods have been removed; the falsification of information as to area from which crawfish were obtained; or the failure to file the report called for in this section shall be grounds to revoke the permit.

(e) Each permit holder shall keep throughout the period of the closed season copies of the bill of sale or invoices covering each transaction involving crawfish imported under this permit. Such invoices and bills shall be kept available at all times for inspection by the division.

Section 41. Effective October 1, 1997, section 370.1405, Florida Statutes, is created to read:

370.1405 Crawfish reports by dealers during closed season required.—

(1) Within 3 days after the commencement of the closed season for the taking of saltwater crawfish, each and every seafood dealer, either retail or wholesale, intending to possess crawfish, crawfish tails, or crawfish meat during closed season shall submit to the Department of Environmental Protection, on forms provided by the department, a sworn report of the quantity, in pounds, of saltwater whole crawfish, crawfish tails, and crawfish meat in the dealer's name or possession as of the date the season closed. This report shall state the location and number of pounds of whole crawfish, crawfish tails, and crawfish meat. The department shall not accept any reports not delivered or postmarked by midnight of the 3rd calendar day after the commencement of the closed season, and any stocks of crawfish reported therein are declared a nuisance and may be seized by the department.

(2) Failure to submit a report as described in subsection (1) or reporting a greater or lesser amount of whole crawfish, crawfish tails, or crawfish meat than is actually in the dealer's possession or name is a major violation of this chapter, punishable as provided in s. 370.021(2), s. 370.07(6)(b), or both. The department shall seize the entire supply of unreported or falsely reported whole crawfish, crawfish tails, or crawfish meat, and shall carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire quantity of unreported or falsely reported crawfish as determined by the judge. After posting the cash bond, the dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 370.061. Otherwise, the product shall be declared a nuisance and disposed of by the department according to law.

(3) All dealers having reported stocks of crawfish may sell or offer to sell such stocks of crawfish; however, such dealers shall submit an additional report on the last day of each month during the duration of the closed season. Reports shall be made on forms supplied by the department. Each dealer shall state on this report the number of pounds sold during the report period and the pounds remaining on hand. In every case, the amount of crawfish sold and the amount reported on hand shall equal the amount remaining on hand in the last submitted report. Reports postmarked later than midnight on the 3rd calendar day of each month during the duration of the closed season will not be accepted by the department. Dealers for which late supplementary reports are not accepted by the department, must show just cause why their entire stock of whole crawfish, crawfish tails, or crawfish meat should not be seized by the department. Whenever a dealer fails to make the monthly supplementary report as described in this subsection, the dealer may be subject to the following civil penalties as follows:

(a) For a first violation, the department shall assess a civil penalty of \$500.

(b) For a second violation within the same crawfish closed season, the department shall assess a civil penalty of \$1,000.

(c) For a third violation within the same crawfish closed season, the department shall assess a civil penalty of \$2,500 and may seize said dealer's entire stock of whole crawfish, crawfish tails, or crawfish meat and carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire remaining quantity of crawfish as determined by the judge. After posting the cash bond, a dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 370.061. Otherwise, the product shall be declared a nuisance and disposed of by the department according to law.

(4) All seafood dealers shall at all times during the closed season make their stocks of whole crawfish, crawfish tails, or crawfish meat available for inspection by the department.

(5) Each dealer in whole crawfish, crawfish tails, or crawfish meat shall keep throughout the period of the crawfish closed season copies of the bill of sale or invoice covering each transaction involving whole crawfish, crawfish tails, or crawfish meat. Such invoices and bills shall be kept available at all times for inspection by the department.

Section 42. (1) Notwithstanding the provisions of (1) section 370.093(3), Florida Statutes, there is hereby established a 3-year pilot program that allows for participation by Saltwater Products License holders with purse seine endorsements during the years 1995 or 1996 located in the counties of Wakulla, Franklin, Gulf, Bay, Walton, and Okaloosa. Priority shall be given to such Saltwater Products License holders with landings in 1996 as recorded on Florida DEP trip tickets of one or more of the following baitfish species: Spanish sardines, cigar minnows, thread herring, chub mackerel, anchovy, little tunny, menhaden, blue runner, and ladyfish. No more than 7 such licenses shall be issued which allow for and shall be limited to the following:

(a) These licenses shall be issued only for the use of baitfish purse seines, not exceeding 600 yards in length, to be used in the nearshore and inshore waters, modified to employ solid tarpaulin material in conjunction with 500 square feet of traditional seine mesh netting in the State of Florida in and south of the counties of Wakulla, Franklin, Gulf, Bay, Walton, and Okaloosa. Only one purse seine per license shall be allowed.

(b) Each licensee shall post a bond of \$50,000 payable to the State of Florida as security to pay for any environmental damage or cleanup of material caused by this fishing gear of the licensee.

(2) The Marine Fisheries Commission shall establish limits on annual harvest levels for the area, for each of the baitfish species that are the subject of this section, based on maintaining healthy scientific and biological levels of stock abundance of those certain baitfish species by allowing annual harvest of the baitfish species in the program area limited by the Florida Marine Fisheries Commission not to exceed 50 percent of the annual average of reported landings which occurred over the 3 years prior to July 1, 1995.

Section 43. Section 403.0882, Florida Statutes, is created to read:

403.0882 Discharge of demineralization concentrate. —

(1) For the purposes of this section, the term:

(a) “Demineralization concentrate” means the concentrated byproduct formed by demineralization.

(b) “Demineralization” means the use of reverse osmosis, ion exchange, membrane softening, ultra filtration, and other similar processes to remove materials from water for the production of potable water for human consumption.

(c) “Small water utility business” means any facility that distributes potable water to two or more customers with a concentrate discharge of less than 50,000 gallons per day.

(2) The department shall classify the discharge of demineralization concentrate as a potable water byproduct rather than as an industrial wastewater. Except as otherwise provided in this section, the discharge of demineralization concentrate shall be permitted according to the same requirements as an industrial wastewater under this chapter.

(3)(a) The discharge of demineralization concentrate from small water utility businesses meeting the standards set forth in this section and s. 403.086(4) shall be presumed to be allowable and permissible in all waters in the state at a reasonably accessible point where such discharge results in minimal negative impact as demonstrated by the permit applicant. The presumption may be overcome only by a demonstration that one or more of the following conditions is present:

1. The discharge will be made directly into an Outstanding Florida Water, except as provided in chapter 90-262, Laws of Florida;

2. The discharge will be made directly to Class I or Class II waters;

3. The discharge will be made to a water body having a total maximum daily load established by the department and the discharge will cause or contribute to a violation of the established load;

4. The discharge fails to meet the requirements of the antidegradation policy contained in the department rules;

5. The discharge will be made to a sole-source aquifer as defined in department rules; or

6. The discharge fails to meet applicable surfacewater and groundwater quality standards.

(b) If one or more of the conditions in subparagraphs (a)1.-6. has been demonstrated, the department may:

1. Require more stringent effluent limitations;

2. Require relocation of the discharge point or a change in the method of discharge;

3. Limit the duration or volume of the discharge; or

4. Prohibit the discharge if there is no alternative that meets the conditions of subparagraphs 1.-3.

(4)(a) Discharge of demineralization concentrate from facilities used for the production of potable water to domestic wastewater treatment plant effluent disposal, not including reuse systems, shall be presumed allowable if the discharge of concentrate to the wastewater treatment facility is at no time greater than 20 percent of the annual average daily flow of that facility;

(b) Discharge of demineralization concentrate from facilities used for the production of potable water to domestic wastewater reuse systems, including drain fields, percolation ponds, absorption fields, and spray irrigation sites, shall be allowable if the applicant demonstrates through the engineering report that the blend will meet water quality standards and protect public health, site vegetation, and the ability of the reuse system, including land application, to function as intended.

(5) For facilities owned by small water utility businesses, the following conditions apply:

(a) A mixing zone with a radius that is not in excess of two times the natural water depth at the point of discharge for acute toxicity, or a 200-foot radius for chronic toxicity, and that provides for a minimum of 4 to 1 dilution within the mixing zone for acute toxicity under all conditions, shall be presumed allowable in the permitting of discharge of concentrate from facilities used for demineralization for potable water production.

(b) The department shall not:

1. Require such businesses to perform toxicity testing at other than the time of permit application, permit renewal, or any requested permit modification, unless the initial toxicity test or any subsequent toxicity test performed by the department does not meet toxicity requirements.

2. Require such businesses to obtain a water-quality-based effluent limitation determination.

(6) Demineralization facilities may apply for permits under this section according to the following schedule:

(a) For facilities providing potable water service to more than 2,000 equivalent residential customers, no later than 18 months after the effective date of this section.

(b) For facilities providing potable water service to 1,000 or more but not more than 2,000 residential equivalent customers, no later than 24 months after the effective date of this section.

(c) For facilities providing potable water service to fewer than 1,000 equivalent residential customers, or small water utility businesses, no later than 36 months after the effective date of this section.

(7) The department may adopt rules for the regulation of demineralization and to implement the provisions of this section.

Section 44. Except as otherwise provided herein, this act shall take effect July 1, 1997.

Approved by the Governor May 29, 1997.

Filed in Office Secretary of State May 29, 1997.