

House Bill No. 293

An act relating to water resources; amending s. 163.3167, F.S.; requiring local governments to include projected water use in comprehensive plans; amending s. 163.3177, F.S.; requiring local governments to consider regional water supply plans in their work plans for building water supply facilities; requiring the updating of work plans; providing that amendments to incorporate the work plan do not count toward the limitation on frequency of adoption of amendments to the comprehensive plan; amending s. 373.116, F.S.; providing that local governments may receive electronic notices of applications for consumptive use permits; creating s. 373.2234, F.S.; authorizing the governing board of a water management district to adopt rules identifying certain preferred water supply sources; providing requirements with respect to such rules; providing construction; amending s. 373.250, F.S.; authorizing water management districts to require the use of reclaimed water in lieu of surface or groundwater when the use of uncommitted reclaimed water is environmentally, economically, and technically feasible; providing construction with respect to such authority; creating s. 373.228, F.S.; providing legislative findings and intent with regard to landscape irrigation design; requiring water management districts to develop landscape irrigation and xeriscape design standards; amending s. 159.803, F.S.; revising the definition of "priority project"; creating s. 373.227, F.S.; requiring the development of a comprehensive statewide water conservation program for public water supply; establishing the purposes of the program; requiring the creation of a clearinghouse or inventory to provide an integrated database for information on public water supply conservation programs; authorizing public water supply utilities to propose goal-based water conservation plans with measurable goals; providing that goal-based water conservation plans that are developed by public water supply utilities and that provide reasonable assurance of achieving water conservation at least as well as conservation requirements adopted by the appropriate water management district meet water conservation requirements imposed as a condition of obtaining a consumptive use permit; requiring the submission of a report by the Department of Environmental Protection; providing rulemaking authority to the Department of Environmental Protection and the water management districts; amending s. 373.0361, F.S.; providing for a public workshop on the development of regional water supply plans that include the consideration of population projections; providing for a list of water source options in regional water supply plans; providing additional regional water supply plan components; including conservation measures in regional water supply plans; revising specified reporting requirements of the Department of Environmental Protection; providing that a district water management plan may not be used as criteria for the review of permits for consumptive uses of water unless the plan or applicable portion thereof has been adopted by rule; providing construction; amending s. 373.0831, F.S.; revising

the criteria by which water supply development projects may receive priority consideration for funding assistance; providing for permitting and funding of a proposed alternative water supply project identified in the relevant approved regional water supply plan; amending s. 373.1961, F.S.; providing funding priority; providing for the establishment of a revolving loan fund for alternative water supply projects; providing conditions for certain projects to receive funding assistance; amending s. 373.536, F.S.; expanding requirements of the 5-year water resource development work program for water management districts; amending s. 403.064, F.S.; revising provisions relating to reuse feasibility studies; providing for metering use of reclaimed water and volume-based rates therefor; requiring wastewater utilities to submit plans for metering use and volume-based rate structures to the department; creating s. 403.0645, F.S.; requiring certain uses of reclaimed water at state facilities; requiring state agencies and water management districts to submit to the Secretary of Environmental Protection periodic reports concerning reclaimed water use; amending s. 403.121, F.S.; conforming administrative penalties assessed against certain public water systems to federal regulations; amending s. 403.1835, F.S.; authorizing the Department of Environmental Protection to make specified deposits for the purpose of enabling below-market interest rate loans for treatment of polluted water; providing for a study of the feasibility of discharging reclaimed wastewater into canals and the aquifer system in a specified area as an environmentally acceptable means of accomplishing described objectives; requiring reports; providing an effective date.

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

Section 1. Subsection (13) is added to section 163.3167, Florida Statutes, to read:

163.3167 Scope of act.—

(13) Each local government shall address in its comprehensive plan, as enumerated in this chapter, the water supply sources necessary to meet and achieve the existing and projected water use demand for the established planning period, considering the applicable plan developed pursuant to s. 373.0361.

Section 2. Paragraph (c) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

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

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and

guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. ~~By December 1, 2006 January 1, 2005, or the Evaluation and Appraisal Report adoption deadline established for the local government pursuant to s. 163.3191(a), whichever date occurs first,~~ the element must consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. The element must include a work plan, covering at least a 10-year planning period, for building water supply facilities that are identified in the element as necessary to serve existing and new development and for which the local government is responsible. The work plan shall be updated, at a minimum, every 5 years within 12 months after the governing board of a water management district approves an updated regional water supply plan. Amendments to incorporate the work plan do not count toward the limitation on frequency of adoption of amendments to the comprehensive plan.

Section 3. Subsection (2) of section 373.116, Florida Statutes, is amended to read:

373.116 Procedure for water use and impoundment construction permit applications.—

(2) Upon receipt of an application for a permit of the type referred to in subsection (1), the governing board shall cause a notice thereof to be published in a newspaper having general circulation within the affected area. In addition, the governing board shall send, by regular or electronic mail, a copy of such notice to any person who has filed a written request for notification of any pending applications affecting this particular designated area. At the option of the applicable county or city government, notice of application for the consumptive use of water shall be mailed by regular or electronic mail to the county and appropriate city government from which boundaries the withdrawal is proposed to be made.

Section 4. Section 373.2234, Florida Statutes, is created to read:

373.2234 Preferred water supply sources.—The governing board of a water management district is authorized to adopt rules that identify preferred water supply sources for consumptive uses for which there is sufficient data to establish that a preferred source will provide a substantial new water supply to meet the existing and projected reasonable-beneficial uses of a water supply planning region identified pursuant to s. 373.0361(1),

while sustaining existing water resources and natural systems. At a minimum, such rules must contain a description of the preferred water supply source and an assessment of the water the preferred source is projected to produce. If an applicant proposes to use a preferred water supply source, that applicant's proposed water use is subject to s. 373.223(1), except that the proposed use of a preferred water supply source must be considered by a water management district when determining whether a permit applicant's proposed use of water is consistent with the public interest pursuant to s. 373.223(1)(c). A consumptive use permit issued for the use of a preferred water supply source must be granted, when requested by the applicant, for at least a 20-year period and may be subject to the compliance reporting provisions of s. 373.236(3). Nothing in this section shall be construed to exempt the use of preferred water supply sources from the provisions of ss. 373.016(4) and 373.223(2) and (3), or be construed to provide that permits issued for the use of a nonpreferred water supply source must be issued for a duration of less than 20 years or that the use of a nonpreferred water supply source is not consistent with the public interest. Additionally, nothing in this section shall be interpreted to require the use of a preferred water supply source or to restrict or prohibit the use of a nonpreferred water supply source. Rules adopted by the governing board of a water management district to implement this section shall specify that the use of a preferred water supply source is not required, and that the use of a nonpreferred water supply source is not restricted or prohibited.

Section 5. Paragraph (c) is added to subsection (2) of section 373.250, Florida Statutes, to read:

373.250 Reuse of reclaimed water.—

(2)

(c) A water management district may require the use of reclaimed water in lieu of surface water or groundwater when the use of uncommitted reclaimed water is environmentally, economically, and technically feasible and of such quality and reliability as is necessary to the user. However, this paragraph does not authorize a water management district to require a provider of reclaimed water to redirect reclaimed water from one user to another or to provide uncommitted water to a specific user if such water is anticipated to be used by the provider, or a different user selected by the provider, within a reasonable amount of time.

Section 6. Section 373.228, Florida Statutes, is created to read:

373.228 Landscape irrigation design.—

(1) The Legislature finds that multiple areas throughout the state have been identified by water management districts as water resource caution areas, which indicates that in the near future water demand in those areas will exceed the current available water supply and that conservation is one of the mechanisms by which future water demand will be met.

(2) The Legislature finds that landscape irrigation comprises a significant portion of water use and that the current typical landscape irrigation

system and xeriscape designs offer significant potential water conservation benefits.

(3) It is the intent of the Legislature to improve landscape irrigation water use efficiency by ensuring that landscape irrigation systems meet or exceed minimum design criteria.

(4) The water management districts shall work with the Florida Nurserymen and Growers Association, the Florida Chapter of the American Society of Landscape Architects, the Florida Irrigation Society, the Department of Agriculture and Consumer Services, the Institute of Food and Agricultural Sciences, the Department of Environmental Protection, the Department of Transportation, the Florida League of Cities, the Florida Association of Counties, and the Florida Association of Community Developers to develop landscape irrigation and xeriscape design standards for new construction which incorporate a landscape irrigation system and develop scientifically based model guidelines for urban, commercial, and residential landscape irrigation, including drip irrigation, for plants, trees, sod, and other landscaping. The landscape and irrigation design standards shall be based on the irrigation code defined in the Florida Building Code, Plumbing Volume, Appendix F. Local governments shall use the standards and guidelines when developing landscape irrigation and xeriscape ordinances. Every 5 years, the agencies and entities specified in this subsection shall review the standards and guidelines to determine whether new research findings require a change or modification of the standards and guidelines.

Section 7. Subsection (5) of section 159.803, Florida Statutes, is amended to read:

159.803 Definitions.—As used in this part, the term:

(5) “Priority project” means a solid waste disposal facility or a sewage facility, as such terms are defined in s. 142 of the Code, or water facility, as defined in s. 142 of the Code, which is operated by a member-owned, not-for-profit utility, or any project which is to be located in an area which is an enterprise zone designated pursuant to s. 290.0065.

Section 8. Section 373.227, Florida Statutes, is created to read:

373.227 Water conservation; legislative findings; legislative intent; objectives; comprehensive statewide water conservation program requirements.—

(1) The Legislature recognizes that the proper conservation of water is an important means of achieving the economical and efficient utilization of water necessary, in part, to constitute a reasonable-beneficial use. The overall water conservation goal of the state is to prevent and reduce wasteful, uneconomical, impractical, or unreasonable use of water resources. The Legislature finds that the social, economic, and cultural conditions of the state relating to the use of public water supply vary by service area and that public water supply utilities must have the flexibility to tailor water conservation measures to best suit their individual circumstances. The Legislature encourages the use of efficient, effective, and affordable water conservation

measures. Where water is provided by a public water supply utility, the Legislature intends that a variety of conservation measures be made available and used to encourage efficient water use. To achieve these conservation objectives, the state should emphasize goal-based, accountable, tailored, and measurable water conservation programs for public water supply. For purposes of this section, the term "public water supply utility" includes both publicly owned and privately owned public water supply utilities that sell potable water on a retail basis to end users.

(2) To implement the findings in subsection (1), the department, in cooperation with the water management districts and other stakeholders, shall develop a comprehensive statewide water conservation program for public water supply. The program should:

(a) Encourage utilities to implement water conservation programs that are economically efficient, effective, affordable, and appropriate;

(b) Allow no reduction in, and increase where possible, utility-specific water conservation effectiveness over current programs;

(c) Be goal-based, accountable, measurable, and implemented collaboratively with water suppliers, water users, and water management agencies;

(d) Include cost and benefit data on individual water conservation practices to assist in tailoring practices to be effective for the unique characteristics of particular utility service areas, focusing upon cost-effective measures;

(e) Use standardized public water supply conservation definitions and standardized quantitative and qualitative performance measures for an overall system of assessing and benchmarking the effectiveness of water conservation programs and practices;

(f) Create a clearinghouse or inventory for water conservation programs and practices available to public water supply utilities which will provide an integrated statewide database for the collection, evaluation, and dissemination of quantitative and qualitative information on public water supply conservation programs and practices and their effectiveness. The clearinghouse or inventory should have technical assistance capabilities to aid in the design, refinement, and implementation of water conservation programs and practices. The clearinghouse or inventory shall also provide for continual assessment of the effectiveness of water conservation programs and practices;

(g) Develop a standardized water conservation planning process for utilities; and

(h) Develop and maintain a Florida-specific water conservation guidance document containing a menu of affordable and effective water conservation practices to assist public water supply utilities in the design and implementation of goal-based, utility-specific water conservation plans tailored for their individual service areas as provided in subsection (4).

(3) Regarding the use of water conservation or drought rate structures as a conservation practice, a water management district shall afford a public

water supply utility wide latitude in selecting a rate structure and shall limit its review to whether the utility has provided reasonable assurance that the rate structure contains a schedule of rates designed to promote efficient use of water by providing economic incentives. A water management district shall not fix or revise rates.

(4) As part of an application for a consumptive use permit, a public water supply utility may propose a goal-based water conservation plan that is tailored to its individual circumstances. Progress towards goals must be measurable. If the utility provides reasonable assurance that the plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the appropriate water management district and is otherwise consistent with s. 373.223, the district must approve the plan which shall satisfy water conservation requirements imposed as a condition of obtaining a consumptive use permit. The conservation measures included in an approved goal-based water conservation plan may be reviewed periodically and updated as needed to ensure efficient water use for the duration of the permit. If the plan fails to meet the water conservation goal or goals by the timeframes specified in the permit, the public water supply utility shall revise the plan to address the deficiency or employ the water conservation requirements that would otherwise apply in the absence of an approved goal-based plan.

(5) By December 1, 2005, the department shall submit a written report to the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive committees of the Senate and the House of Representatives on the progress made in implementing the comprehensive statewide water conservation program for public water supply required by this section. The report must include any statutory changes and funding requests necessary for the continued development and implementation of the program.

(6) The department or a water management district may adopt rules pursuant to ss. 120.536(1) and 120.54 to carry out the purposes of this section.

Section 9. Subsections (1), (2), (5), and (6) of section 373.0361, Florida Statutes, are amended 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. During development but prior to completion of the regional water supply plan, the district must conduct at least one public workshop to discuss the technical data and modeling tools anticipated to be used to support the

plan. 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 reevaluate such a determination at least once every 5 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. Population projections used for determining public water supply needs must be based upon the best available data. In determining the best available data, the district shall consider the University of Florida's Bureau of Economic and Business Research (BEBR) medium population projections and any population projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1) if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the BEBR projections must be fully described, and the original BEBR data must be presented along with the adjusted data.

2. A list of water source options ~~for water supply development~~, including traditional and alternative ~~source options sources~~, from which local government, government-owned and privately owned utilities, self-suppliers, and others may choose, ~~for water supply development, the total capacity of which will, in conjunction with water conservation and other demand management measures, 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.
- (h) Reservations of water adopted by rule pursuant to s. 373.223(4).
- (i) An analysis, developed in cooperation with the department, of areas or instances in which the variance provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to create water supply development or water resource development projects.

The water supply development component of a regional water supply plan which deals with or affects public utilities and public water supply for those areas served by a regional water supply authority and its member governments within the boundaries of the Southwest Florida Water Management District shall be developed jointly by the authority and the district.

(5) By ~~November 15, 1997,~~ and Annually and in conjunction with the reporting requirements of s. 373.536(6)(a)4. 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.

(c) An assessment of the overall progress being made to develop water supply that is consistent with regional water supply plans to meet existing and future reasonable-beneficial needs during a 1-in-10-year drought.

(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, nor may the plan be used in the review of permits under part II unless the plan, or an applicable portion thereof, has been adopted by rule. However, this subsection does not prohibit a water management district from employing the data or other information used to establish the plan in reviewing permits under part II, nor does it ~~shall not be construed~~ to limit the authority of the department or governing board under part II.

Section 10. Subsection (3) of section 373.0831, Florida Statutes, is amended, and paragraph (c) is added to subsection (4) of that section, to read:

373.0831 Water resource development; water supply development.—

(3) The water management districts shall fund and implement water resource development as defined in s. 373.019. The water management districts are encouraged to implement water resource development as expeditiously as possible in areas subject to regional water supply plans. 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)

(c) If a proposed alternative water supply development project is identified in the relevant approved regional water supply plan, the project shall receive:

1. A 20-year consumptive use permit, if it otherwise meets the permit requirements under ss. 373.223 and 373.236 and rules adopted thereunder.

2. Consideration for priority funding pursuant to s. 373.1961(2) if the project meets one of the criteria in this subsection.

Section 11. Subsection (2) of section 373.1961, Florida Statutes, is amended to read:

373.1961 Water production.—

(2) The Legislature finds that, due to a combination of factors, vastly increased demands have been placed on natural supplies of fresh water, and that, absent increased development of alternative water supplies, such demands may increase in the future. The Legislature also finds that potential exists in the state for the production of significant quantities of alternative water supplies, including reclaimed water, and that water production includes the development of alternative water supplies, including reclaimed water, for appropriate uses. It is the intent of the Legislature that utilities develop reclaimed water systems, where reclaimed water is the most appropriate alternative water supply option, to deliver reclaimed water to as

many users as possible through the most cost-effective means, and to construct reclaimed water system infrastructure to their owned or operated properties and facilities where they have reclamation capability. It is also the intent of the Legislature that the water management districts which levy ad valorem taxes for water management purposes should share a percentage of those tax revenues with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, industrial, and agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies. The Legislature finds that public moneys or services provided to private entities for such uses constitute public purposes which are in the public interest. In order to further the development and use of alternative water supply systems, including reclaimed water systems, the Legislature provides the following:

(a) The governing boards of the water management districts where water resource caution areas have been designated shall include in their annual budgets an amount for the development of alternative water supply systems, including reclaimed water systems, pursuant to the requirements of this subsection. Beginning in 1996, such amounts shall be made available to water providers and users no later than December 31 of each year, through grants, matching grants, revolving loans, or the use of district lands or facilities pursuant to the requirements of this subsection and guidelines established by the districts. In making grants or loans, funding priority must be given to projects in accordance with s. 373.0831(4). Without diminishing amounts available through other means described in this paragraph, the governing boards are encouraged to consider establishing revolving loan funds to expand the total funds available to accomplish the objectives of this section. A revolving loan fund created under this paragraph must be a nonlapsing fund from which the water management district may make loans with interest rates below prevailing market rates to public or private entities for the purposes described in this section. The governing board may adopt resolutions to establish revolving loan funds which must specify the details of the administration of the fund, the procedures for applying for loans from the fund, the criteria for awarding loans from the fund, the initial capitalization of the fund, and the goals for future capitalization of the fund in subsequent budget years. Revolving loan funds created under this paragraph must be used to expand the total sums and sources of cooperative funding available for the development of alternative water supplies. The Legislature does not intend for the creation of revolving loan funds to supplant or otherwise reduce existing sources or amounts of funds currently available through other means.

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

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

2. Promote the conservation of fresh water withdrawn from natural systems;
3. Provide for an appropriate distribution of costs for all water, wastewater, and alternative water supply utilities, including reclaimed water utilities, among all of the users of those utilities; and
4. Prohibit rate discrimination within classes of utility users.

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

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

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

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

4. Development of location data for key reuse facilities.

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

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

~~(f)~~(e) By January 1 of each year, the governing boards shall make available written guidelines for the disbursement of revenues pursuant to this subsection. Such guidelines shall include at minimum:

1. An application process and a deadline for filing applications annually.
2. A process for determining project eligibility pursuant to the requirements of paragraphs ~~(d)~~ (e) and ~~(e)~~ (d).
3. A process and criteria for funding projects pursuant to this subsection that cross district boundaries or that serve more than one district.

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

(h)(g) All revenues made available annually pursuant to this subsection must be encumbered annually by the governing board if it approves projects sufficient to expend the available revenues. Funds must be disbursed within 36 months after encumbrance.

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

(j)(i) This subsection shall not be subject to the rulemaking requirements of chapter 120.

(k)(j) By January 30 of each year, each water management district shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which accounts for the disbursement of all budgeted amounts pursuant to this subsection. Such report shall describe all projects funded and shall account separately for moneys provided through grants, matching grants, revolving loans, and the use of district lands or facilities.

(l)(k) The Florida Public Service Commission shall allow entities under its jurisdiction constructing alternative water supply facilities, including but not limited to aquifer storage and recovery wells, to recover the full, prudently incurred cost of such facilities through their rate structure. Every component of an alternative water supply facility constructed by an investor-owned utility shall be recovered in current rates.

Section 12. Paragraph (a) of subsection (6) of section 373.536, Florida Statutes, is amended to read:

373.536 District budget and hearing thereon.—

(6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN; WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

(a) Each district must, by the date specified for each item, 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 having substantive or fiscal jurisdiction over the districts, as determined by the President of the Senate or the Speaker of the House of Representatives as applicable, the secretary of the department, and the governing board of each county in which the district has jurisdiction or derives any funds for the operations of the district:

1. The adopted budget, to be furnished within 10 days after its adoption.
2. A financial audit of its accounts and records, to be furnished within 10 days after its acceptance by the governing board. The audit must be conducted in accordance with the provisions of s. 11.45 and the rules adopted thereunder. In addition to the entities named above, the district must provide a copy of the audit to the Auditor General within 10 days after its acceptance by the governing board.
3. A 5-year capital improvements plan, to be furnished within 45 days after the adoption of the final budget. The plan must include expected sources of revenue for planned improvements and must be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043.
4. A 5-year water resource development work program to be furnished within 45 days after the adoption of the final budget. The program must describe the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised under s. 373.0361. The work program must address all the elements of the water resource development component in the district's approved regional water supply plans and must identify which projects in the work program will provide water, explain how each water resource development project will produce additional water available for consumptive uses, estimate the quantity of water to be produced by each project, and provide an assessment of the contribution of the district's regional water supply plans in providing sufficient water to meet the water supply needs of existing and future reasonable-beneficial uses for a 1-in-10- year drought event. Within 45 days after its submittal, the department shall review the proposed work program and submit its findings, questions, and comments to the district. The review must include a written evaluation of the program's consistency with the furtherance of the district's approved regional water supply plans, and the adequacy of proposed expenditures. As part of the review, the department shall give interested parties the opportunity to provide written comments on each district's proposed work program. Within 60 days after receipt of the department's evaluation, the governing board shall state in writing to the department which changes recommended in the evaluation it will incorporate into its work program or specify the reasons for not incorporating the changes. The department shall include the district's responses in a final evaluation report and shall submit a copy of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(b) If any entity listed in paragraph (a) provides written comments to the district regarding any document furnished under this subsection, the dis-

trict must respond to the comments in writing and furnish copies of the comments and written responses to the other entities.

Section 13. Subsections (1) and (6) of section 403.064, Florida Statutes, are amended, and subsection (16) is added to that section, to read:

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest. The Legislature finds that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems. The Legislature further finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety. The Legislature encourages the development of incentive-based programs for reuse implementation.

(6) A reuse feasibility study prepared under subsection (2) satisfies a water management district requirement to conduct a reuse feasibility study imposed on a local government or utility that has responsibility for wastewater management. The data included in the study and the conclusions of the study must be given significant consideration by the applicant and the appropriate water management district in an analysis of the economic, environmental, and technical feasibility of providing reclaimed water for reuse under part II of chapter 373 and must be presumed relevant to the determination of feasibility. A water management district may not require a separate study when a reuse feasibility study has been completed under subsection (2).

(16) Utilities implementing reuse projects are encouraged, except in the case of use by electric utilities as defined in s. 366.02(2), to meter use of reclaimed water by all end users and to charge for the use of reclaimed water based on the actual volume used when such metering and charges can be shown to encourage water conservation. Metering and the use of volume-based rates are effective water management tools for the following reuse activities: residential irrigation, agricultural irrigation, industrial uses, landscape irrigation, irrigation of other public access areas, commercial and institutional uses such as toilet flushing, and transfers to other reclaimed water utilities. Beginning with the submittal due on January 1, 2005, each domestic wastewater utility that provides reclaimed water for the reuse activities listed in this section shall include a summary of its metering and rate structure as part of its annual reuse report to the department.

Section 14. Section 403.0645, Florida Statutes, is created to read:

403.0645 Reclaimed water use at state facilities.—

(1) The encouragement and promotion of reuse of reclaimed water has been established as a state objective in ss. 373.250 and 403.064. Reuse has become an integral part of water and wastewater management in Florida, and Florida is recognized as a national leader in water reuse.

(2) The state and various state agencies and water management districts should take a leadership role in using reclaimed water in lieu of other water sources. The use of reclaimed water by state agencies and facilities will conserve potable water and will serve an important public education function.

(3) Each state agency and water management district shall use reclaimed water to the greatest extent practicable for landscape irrigation, toilet flushing, aesthetic features such as decorative ponds and fountains, cooling water, and other useful purposes allowed by department rules at state facilities, including, but not limited to, parks, rest areas, visitor welcome centers, buildings, college campuses, and other facilities.

(4) Each state agency and water management district shall submit to the Secretary of Environmental Protection by February 1 of each year a summary of activities designed to utilize reclaimed water at its facilities along with a summary of the amounts of reclaimed water actually used for beneficial purposes.

Section 15. Paragraph (b) of subsection (2), paragraph (f) of subsection (4) and subsection (5) of section 403.121, Florida Statutes, are amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(2) Administrative remedies:

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed \$10,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s.300g-2, the administrative penalty assessed pursuant to subsections (3), (4), or (5) against a public water system serving a population of more than 10,000 shall be not less than \$1,000 per day per violation. The department shall not impose administrative penalties in excess of \$10,000 in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare,

submit, maintain, or use required reports or other required documentation, \$500.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of \$500.

Section 16. Paragraph (b) of subsection (3) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(3) The department may provide financial assistance through any program authorized under s. 603 of the Federal Water Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as amended, including, but not limited to, making grants and loans, providing loan guarantees, purchasing loan insurance or other credit enhancements, and buying or refinancing local debt. This financial assistance must be administered in accordance with this section and applicable federal authorities. The department shall administer all programs operated from funds secured through the activities of the Florida Water Pollution Control Financing Corporation under s. 403.1837, to fulfill the purposes of this section.

(b) The department may make or request the corporation to make loans, grants, and deposits to other entities eligible to participate in the financial assistance programs authorized under the Federal Water Pollution Control Act, or as a result of other federal action, which entities may pledge any revenue available to them to repay any funds borrowed. Notwithstanding s. 17.57, the department may make deposits to financial institutions which earn less than the prevailing rate for United States Treasury securities with corresponding maturities for the purpose of enabling such financial institutions to make below-market interest rate loans to entities qualified to receive loans under this section and the rules of the department.

Section 17. The Legislature finds that within the area identified in the Lower East Coast Regional Water Supply Plan approved by the South Florida Water Management District pursuant to section 373.0361, Florida Statutes, the groundwater levels can benefit from augmentation. The Legislature finds that the direct or indirect discharge of reclaimed water into canals and the aquifer system for transport and subsequent reuse may provide an environmentally acceptable means to augment water supplies and enhance natural systems; however, the Legislature also recognizes that there are water quality and water quantity issues that must be better understood and resolved. In addition, cost savings may be possible by collocating enclosed conduits for conveyance of water for reuse in this area within canal rights-of-way which should be investigated. The Department of Environmental Protection, in consultation with the South Florida Water Management District, southeast Florida utilities, affected local governments, including local governments with principal responsibility for the operation and maintenance of a water control system capable of conveying reclaimed wastewater for reuse, representatives of the environmental and engineering communities, public health professionals, and individuals who have expertise in water

quality, shall conduct a study to investigate the feasibility of discharging reclaimed wastewater into canals and the aquifer system as an environmentally acceptable means of augmenting groundwater supplies, enhancing natural systems, and conveying reuse water within enclosed conduits within the canal right-of-way. The South Florida Water Management District shall provide the necessary financial and in-kind resources to assist the department in undertaking this study. In the event any discharges are made as part of the study, such discharges must comply with applicable federal, state, and local law, including applicable regulations. The study must include an assessment of the water quality, water supply, public health, technical, and legal implications related to the canal discharge and collocation concepts. The department shall issue a preliminary written report containing draft findings and recommendations for public comment by November 1, 2005. The department shall provide a written report on the results of its study, including public comments received, to the Governor and the relevant substantive committees of the Senate and the House of Representatives by January 31, 2006. This section may not be used to alter the purpose of the Comprehensive Everglades Restoration Plan or the implementation of the Water Resources Development Act of 2000.

Section 18. This act shall take effect upon becoming a law.

Approved by the Governor June 24, 2004.

Filed in Office Secretary of State June 24, 2004.