

Committee Substitute for Committee Substitute for
Committee Substitute for Senate Bill No. 444

An act relating to the development of water supplies; amending s. 373.019, F.S.; defining the terms “alternative water supply,” “capital costs,” and “multijurisdictional water supply entities”; amending s. 373.196, F.S.; encouraging cooperation in the development of water supplies; providing for alternative water supply development; encouraging municipalities, counties, and special districts to create regional water supply authorities; establishing the primary roles of the water management district in alternative water supply development; establishing the primary roles of local governments, regional water supply authorities, special districts, and publicly owned and privately owned water utilities in alternative water supply development; requiring the water management districts to detail the specific allocations to be used for alternative water supply development in their annual budget submission; amending s. 373.1961, F.S.; providing general powers and duties of the water management districts in water production; requiring that the water management districts include the amount needed to implement the water supply development projects in each annual budget; establishing general funding criteria for funding assistance to the state or water management districts; establishing economic incentives for alternative water supply development; creating a funding formula for the distribution of state funds to the water management districts for alternative water supply development; requiring that funding assistance for alternative water supply development be limited to a percentage of the total capital costs of an approved project; establishing a selection process and criteria; providing for cost recovery from the Public Service Commission; repealing paragraph (c) of subsection (4) of s. 373.0831, F.S.; relating to certain alternative water supply development projects; amending s. 373.1962, F.S.; clarifying that counties, municipalities, and special districts may execute interlocal agreements to create regional water supply authorities; amending s. 373.223, F.S.; establishing criteria for certain water supply entities to be presumed to have a use consistent with the public interest for requirements for consumptive use permitting; amending s. 373.236, F.S.; providing permits of at least 20 years for development of alternative water supplies under certain conditions; amending s. 373.459, F.S.; requiring that entities receiving state funding for implementation of surface water improvement and management projects provide a 50-percent match of cash or in-kind services; amending s. 373.0361, F.S.; providing for the development of regional water supply plans; providing requirements for the content of each plan; providing for an approval process for the plans; providing for annual updates; providing for local government use of the plans; providing notification requirements for water management districts concerning findings within the plan; requiring identified entities to select alternative water supply projects and provide periodic status reports; changing

the deadline for certain plan updates; amending s. 163.3177, F.S.; requiring a local government to incorporate alternative water supply projects into the comprehensive plan; requiring local governments to identify specific projects needed; providing for cooperative planning; amending s. 163.3180, F.S.; requiring adequate water supplies to serve new development; amending s. 163.3191, F.S.; requiring the evaluation and appraisal report to evaluate the degree to which the local government has implemented the work plan for regional water supply facilities, including development of alternative water supplies necessary to serve existing and new development; amending s. 403.067, F.S.; providing that initial allocation of allowable pollutant loads between point and nonpoint sources may be developed as part of a total maximum daily load; establishing criteria for establishing initial and detailed allocations to attain pollutant reductions; authorizing the Department of Environmental Protection to adopt phased total maximum daily loads that establish incremental total maximum daily loads under certain conditions; requiring the development of basin management action plans; requiring that basin management action plans integrate the appropriate management strategies to achieve the total maximum daily loads; requiring that the plans establish a schedule for implementing management strategies; requiring that a basin management action plan equitably allocate pollutant reductions to individual basins or to each identified point source or category of nonpoint sources; authorizing that plans may provide pollutant load reduction credits to dischargers that have implemented strategies to reduce pollutant loads prior to the development of the basin management action plan; requiring that the plan identify mechanisms by which potential future sources of pollution will be addressed; requiring that the department assure key stakeholder participation in the basin management action planning process; requiring that the department hold at least one public meeting to discuss and receive comments during the planning process; providing notice requirements; requiring that the department adopt all or part of a basin management action plan by secretarial order pursuant to ch. 120, F.S.; requiring that basin management action plans that alter that calculation or initial allocation of a total maximum daily load, the revised calculation, or initial allocation must be adopted by rule; requiring periodic evaluation of basin management action plans; requiring that revisions to plans be made by the department in cooperation with stakeholders; providing for basin plan revisions regarding nonpoint pollutant sources; requiring that adopted basin management action plans be included in subsequent NPDES permits or permit modifications; providing that implementation of a total maximum daily load or basin management action plan for holders of an NPDES municipal separate stormwater sewer system permit may be achieved through the use of best management practices; providing that basin management action plans do not relieve a discharger from the requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit; requiring that plan management strategies be completed pursuant

to the schedule set forth in the basin management action plan and providing that the implementation schedule may extend beyond the term of an NPDES permit; providing that management strategies and pollution reduction requirements in a basin management action plan for a specific pollutant of concern are not subject to a challenge under ch. 120, F.S., at the time they are incorporated, in identical form, into a subsequent NPDES permit or permit modification; requiring timely adoption and implementation of pollutant reduction actions for nonagricultural pollutant sources not subject to NPDES permitting but regulated pursuant to other state, regional, or local regulatory programs; requiring timely implementation of best management practices for nonpoint pollutant source dischargers not subject to permitting at the time a basin management action plan is adopted; providing for presumption of compliance under certain circumstances; providing for enforcement action by the department or a water management district; requiring that a landowner, discharger, or other responsible person that is implementing management strategies specified in an adopted basin management action plan will not be required by permit, enforcement action, or otherwise to implement additional management strategies to reduce pollutant loads; providing that the authority of the department to amend a basin management plan is not limited; requiring that the department verify at representative sites the effectiveness of interim measures, best management practices, and other measures adopted by rule; requiring that the department use its best professional judgment in making initial verifications that best management practices are not effective; requiring notice to the appropriate water management district and the Department of Agriculture and Consumer Services under certain conditions; establishing a presumption of compliance for implementation of practices initially verified to be effective or verified to be effective at representative sites; limiting the institution of proceedings by the department against the owner of a source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants; requiring the Department of Agriculture and Consumer Services to institute a reevaluation of best management practices or other measures where water quality problems are detected or predicted during the development or amendment of a basin management action plan; providing for rule revisions; providing the department with rulemaking authority; requiring that a report be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing recommendations on rules for pollutant trading prior to the adoption of those rules; requiring that recommendations be developed in cooperation with a technical advisory committee containing experts in pollutant trading and representatives of potentially affected parties; deleting a requirement that no pollutant trading program shall become effective prior to review and ratification by the Legislature; amending ss. 373.4595 and 570.085, F.S.; correcting cross-references; amending s. 403.885, F.S.; revising requirements relating to the department's grant program for water quality improvement and water restoration

project grants; eliminating grants for water quality improvement, water management, and drinking water projects; authorizing grants for wastewater management; creating additional criteria for funding storm water grants; requiring local matching funds; providing an exception from matching fund requirements for financially disadvantaged small local governments; creating s. 403.890, F.S.; establishing the Water Protection and Sustainability Program; establishing a funding formula for the distribution of revenues; providing for legislative review; providing an effective date.

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

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

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

(1) “Alternative water supplies” means salt water; brackish surface and groundwater; surface water captured predominately during wet-weather flows; sources made available through the addition of new storage capacity for surface or groundwater, water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; storm-water; and any other water supply source that is designated as nontraditional for a water supply planning region in the applicable regional water supply plan.

(2) “Capital costs” means planning, design, engineering, and project construction costs.

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

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

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

(6)(4) “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.

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

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

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

(10)(8) “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.

(11)(9) “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.

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

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

(14)(11) “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.

(15)(12) “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.

(16)(13) “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.

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

(18)(15) “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.

(19)(16) “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.

(20)(17) “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.

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

~~(22)~~(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.

~~(23)~~(20) “Water resource implementation rule” means the rule authorized by s. 373.036, which sets 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.

~~(24)~~(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.

~~(25)~~(22) For the sole purpose of serving as the basis for the unified state-wide 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.

~~(26)~~(23) “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 2. Section 373.196, Florida Statutes, is amended to read:

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

373.196 Alternative water supply development.—

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

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

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

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

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

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

(f) It is in the public interest that county, municipal, industrial, agricultural, and other public and private water users, the Department of Environmental Protection, and the water management districts cooperate and work together in the development of alternative water supplies to avoid the adverse effects of competition for limited supplies of water. Public moneys or services provided to private entities for alternative water supply development may constitute public purposes that also are in the public interest.

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

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

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

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

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

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

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

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

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

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

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

(a) The planning, design, construction, operation, and maintenance of alternative water supply development projects;

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

(c) The planning, design, construction, operation, and maintenance of facilities to collect, divert, produce, treat, transmit, and distribute water for sale, resale, or end use; and

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

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

(6)(a) The statewide funds provided pursuant to the Water Protection and Sustainability Program serve to supplement existing water management district or basin board funding for alternative water supply development assistance and should not result in a reduction of such funding. Therefore, the water management districts shall include, in the annual tentative and adopted budget submittals required under this chapter the amount of funds allocated for water resource development that supports alternative water supply development and the funds allocated for alternative water supply projects selected for inclusion in the Water Protection and Sustainability Program. It shall be the goal of each water management district and basin boards that the combined funds allocated annually for these purposes be, at a minimum, the equivalent of 100 percent of the state funding provided to the water management district for alternative water supply development. If this goal is not achieved, the water management district shall provide in the budget submittal an explanation of the reasons or constraints that prevent this goal from being met, an explanation of how the goal will be met in future years, and affirmation of match is required during the budget review process as established under s. 373.536(5). The Suwannee River Water Management District and the Northwest Florida Water Management District shall not be required to meet the match requirements of this paragraph; however, they shall try to achieve the match requirement to the greatest extent practicable.

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

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

373.1961 Water production; general powers and duties; identification of needs; funding criteria; economic incentives; reuse funding.—

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

(a) Shall engage in planning to assist counties, municipalities, special districts, publicly owned and privately owned water private utilities, multi-jurisdictional water supply entities, or regional water supply authorities in meeting water supply needs in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas. As used in this section and s. 373.196, regional water supply authorities are regional water authorities created under s. 373.1962 or other laws of this state.

(b) Shall assist counties, municipalities, special districts, publicly owned or privately owned water private utilities, multi-jurisdictional water supply entities, or regional water supply authorities in meeting water supply needs in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas.

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

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

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

(f) May provide water and financial assistance to regional water supply authorities, but may not provide water to counties and municipalities which are located within the area of such authority without the specific approval of the authority or, in the event of the authority's disapproval, the approval of the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission. The district may supply water at rates and upon terms mutually agreed to by the parties or, if they do not agree, as set by the governing board and specifically approved by the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission.

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

located does not object within 45 days after notification of such exercise of eminent domain authority.

(h) In addition to the power to issue revenue bonds pursuant to s. 373.584, may issue revenue bonds for the purposes of paying the costs and expenses incurred in carrying out the purposes of this chapter or refunding obligations of the district issued pursuant to this section. Such revenue bonds shall be secured by, and be payable from, revenues derived from the operation, lease, or use of its water production and transmission facilities and other water-related facilities and from the sale of water or services relating thereto. Such revenue bonds may not be secured by, or be payable from, moneys derived by the district from the Water Management Lands Trust Fund or from ad valorem taxes received by the district. All provisions of s. 373.584 relating to the issuance of revenue bonds which are not inconsistent with this section shall apply to the issuance of revenue bonds pursuant to this section. The district may also issue bond anticipation notes in accordance with the provisions of s. 373.584.

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

(2) IDENTIFICATION OF WATER SUPPLY NEEDS IN DISTRICT BUDGET.—The water management district shall implement its responsibilities as expeditiously as possible in areas subject to regional water supply plans. Each district's governing board shall include in its annual budget the amount needed for the fiscal year to assist in implementing alternative water supply development projects. 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

(3) FUNDING.—

~~(a) The water management districts and the state shall 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, special district, 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:~~

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

1. Thirty percent to the South Florida Water Management District;
2. Twenty-five percent to the Southwest Florida Water Management District;
3. Twenty-five percent to the St. Johns River Water Management District;
4. Ten percent to the Suwannee River Water Management District; and
5. Ten percent to the Northwest Florida Water Management District.

(c) The financial assistance for alternative water supply projects allocated in each district's budget as required in s. 373.196(6) shall be combined with the state funds and used to assist in funding the project construction costs of alternative water supply projects selected by the governing board. If the district has not completed any regional water supply plan, or the regional water supply plan does not identify the need for any alternative water supply projects, funds deposited in that district's trust fund may be used for water resource development projects, including, but not limited to, springs protection.

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

(e) Applicants for projects that may receive funding assistance pursuant to the Water Protection and Sustainability Program shall, at a minimum, be required to pay 60 percent of the project's construction costs. The water management districts may, at their discretion, totally or partially waive this requirement for projects sponsored by financially disadvantaged small local

governments as defined in s. 403.885(4). The water management districts or basin boards, may at their discretion, use ad valorem or federal revenues to assist a project applicant in meeting the requirements of this paragraph.

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

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

2. Whether the project reduces competition for water supplies.

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

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

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

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

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

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

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

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

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

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

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

(h) After conducting one or more meetings to solicit public input on eligible projects including input from those entities identified pursuant to s.

373.036(2)(a)3.d. for implementation of alternative water supply projects, the governing board of each water management district shall select projects for funding assistance based upon the criteria set forth in paragraphs (f) and (g). The governing board may select a project identified or listed as an alternative water supply development project in the regional water supply plan, or allocate up to 20 percent of the funding for alternative water supply projects that are not identified or listed in the regional water supply plan but are consistent with the goals of the plan.

~~(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).~~

(i) 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.

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

1. Promote the conservation of water; and
2. Promote the use of water from alternative water supplies.

~~(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) ~~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) ~~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.~~

(k)(f) ~~By January 1 of each year, The governing boards shall establish a process 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) and (e).
- 3.— A process and criteria for funding projects pursuant to this subsection that cross district boundaries or that serve more than one district.

~~(g) 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.~~

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

~~(i) 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.~~

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

~~(n)(k) By March 1 January 30 of each year, as part of a consolidated annual report, each water management district shall submit a 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 section subsection. Such report shall describe all alternative water supply projects funded as well as the quantity of new water to be created as a result of such projects and shall account separately for any other moneys provided through grants, matching grants, revolving loans, and the use of district lands or facilities to implement regional water supply plans.~~

~~(o)(4) The Florida Public Service Commission shall allow entities under its jurisdiction constructing or participating in constructing facilities that provide alternative water supplies supply facilities, including but not limited to aquifer storage and recovery wells, to recover their the full, prudently~~

incurred cost of constructing such facilities through their rate structure. If construction of a facility or participation in construction is pursuant to or in furtherance of a regional water supply plan, the cost shall be deemed to be prudently incurred. Every component of an alternative water supply facility constructed by an investor-owned utility shall be recovered in current rates. Any state or water management district cost-share is not subject to the recovery provisions allowed in this paragraph.

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

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

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

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

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

Section 4. Paragraph (c) of subsection (4) of section 373.0831, Florida Statutes, is repealed.

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

373.1962 Regional water supply authorities.—

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

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

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

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

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

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

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

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

Section 6. Subsection (5) is added to section 373.223, Florida Statutes, to read:

373.223 Conditions for a permit.—

(5) In evaluating an application for consumptive use of water which proposes the use of an alternative water supply project as described in the regional water supply plan and provides reasonable assurances of the applicant's capability to design, construct, operate, and maintain the project, the governing board or department shall presume that the alternative water supply use is consistent with the public interest under s. 373.223(1)(c). However, where the governing board identifies the need for a multijurisdictional water supply entity or regional water supply authority to develop the alternative water supply project pursuant to s. 373.0361(2)(a)2., the presumption shall be accorded only to that use proposed by such entity or authority. This subsection does not effect evaluation of the use pursuant to the provisions of ss. 373.223(1)(a) and (b), (2), and (3), 373.2295, and 373.233.

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

373.236 Duration of permits; compliance reports.—

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

Section 8. Section 373.459, Florida Statutes, is amended to read:

373.459 Funds for surface water improvement and management.—

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

(2) An entity that receives state funding for the implementation of programs specified in ss. 373.451-373.459, including a water management district, federal, local, or regional agency, university, or nonprofit or private organization, shall provide a 50-percent match of cash or in-kind services towards the implementation of the specific project for which it is contracting.

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

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

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

Section 9. Section 373.0361, Florida Statutes, is amended to read:

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

373.0361 Regional water supply planning.—

(1) The governing board of each water management district shall conduct water supply planning for any water supply planning region within the district identified in the appropriate district water supply plan under s. 373.036, where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. The 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, multi-jurisdictional water supply entities, self-suppliers, and other affected and interested parties. The districts shall actively engage in public education and outreach to all affected local entities and their officials, as well as

members of the public, in the planning process and in seeking input. During preparation, 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 regional water supply plan. The district shall also hold several public meetings to communicate the status, overall conceptual intent, and impacts of the plan on existing and future reasonable-beneficial uses and related natural systems. During the planning process, a local government may choose to prepare its own water supply assessment to determine if existing water sources are adequate to meet existing and projected reasonable-beneficial needs of the local government while sustaining water resources and related natural systems. The local government shall submit such assessment, including the data and methodology used, to the district. The district shall consider the local government's assessment during the formation of 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 need not be limited to:

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

1. A quantification of the water supply needs for all existing and future reasonable-beneficial 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 supply development project options, including traditional and alternative water supply project options, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects. If such users propose a project to be listed as an alternative water supply project, the district shall determine whether it meets the goals of the plan, and, if so, it shall be included in the list. The total capacity of the projects included in the plan shall exceed the needs identified in subparagraph 1. and shall take into account water

conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and levels and water reservations. Where the district determines it is appropriate, the plan should specifically identify the need for multijurisdictional approaches to project options that, based on planning level analysis, are appropriate to supply the intended uses and that, based on such analysis, appear to be permissible and financially and technically feasible.

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

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

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

c. An analysis of funding needs and sources of possible funding options. For alternative water supply projects the water management districts shall provide funding assistance in accordance with s. 373.1961(3).

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

(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 timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and for operating and maintaining the project.

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

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

(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 project options addressed in paragraph (a) 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 each planning region which are necessary to support the regional water supply plan.

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

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

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

(j) 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.

(3) 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 boundary of the Southwest Florida Water Management District shall be developed jointly by the authority and the district. In areas not served by regional water supply authorities, or other multijurisdictional water supply entities, and where opportunities exist to meet water supply needs more efficiently through multijurisdictional projects identified pursuant to s. 372.0361(2)(a), water management districts are directed to assist in developing multijurisdictional approaches to water supply project development jointly with affected water utilities, special districts, and local governments.

(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) Annually and in conjunction with the reporting requirements of s. 373.536(6)(a)4., 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) The percentage and amount, by district, of district ad valorem tax revenues or other district funds made available to develop alternative water supplies.

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

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

(e) An overall assessment of the progress being made to develop water supply in each district, including, but not limited to, an explanation of how each project, either alternative or traditional, will produce, contribute to, or account for additional water being made available for consumptive uses, an estimate of the quantity of water to be produced by each project, and an assessment of the contribution of the district's regional water supply plan in providing sufficient water to meet the needs of existing and future reasonable-beneficial uses for a 1-in-10 year drought event, as well as the needs of the natural systems.

(6) Nothing contained in the water supply development component of a regional water supply plan shall be construed to require local governments, government-owned or privately owned water utilities, special districts, self-suppliers, regional water supply authorities, multijurisdictional water supply entities, or other water suppliers to select a water supply development project identified in the component merely because it is identified in the plan. Except as provided in s. 373.223(3) and (5), the plan may not 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 limit the authority of the department or governing board under part II.

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

(a) Within 6 months following approval or amendment of its regional water supply plan, each water management district shall notify by certified mail each entity identified in sub-subparagraph (2)(a)3.d. of that portion of the plan relevant to the entity. Upon request of such an entity, the water management district shall appear before and present its findings and recommendations to the entity.

(b) Within 1 year after the notification by a water management district pursuant to paragraph (a), each entity identified in sub-subparagraph (2)(a)3.d. shall provide to the water management district written notification of the following: the alternative water supply projects or options identified in s. 373.0361(2)(a) which it has developed or intends to develop, if any; an estimate of the quantity of water to be produced by each project; and the status of project implementation, including development of the financial plan, facilities master planning, permitting, and efforts in coordinating multijurisdictional projects, if applicable. The information provided in the notification shall be updated annually and a progress report shall be provided by November 15 of each year to the water management district. If an entity does not intend to develop one or more of the alternative water supply project options identified in the regional water supply plan, the entity shall propose, within 1 year after notification by a water management district

pursuant to paragraph (a), another alternative water supply project option sufficient to address the needs identified in paragraph (2)(a) within the entity's jurisdiction and shall provide an estimate of the quantity of water to be produced by the project and the status of project implementation as described in this paragraph. The entity may request that the water management district consider the other project for inclusion in the regional water supply plan.

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

Section 10. 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. Within 18 months after the governing board approves an updated regional water supply plan ~~By December 1, 2006,~~ the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.0361(2)(a) or proposed by the local government under s. 373.0361(7)(b) consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. If a local government is located within two water management districts, the local government shall adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan. The element must identify such alternative water supply projects and traditional water supply projects and conservation and reuse, necessary to meet the water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction and include a work plan, covering at least a 10 year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which 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 ~~18~~ 12 months after the governing board of a water management district approves an updated regional water supply plan. Local governments, public and private utilities, regional water supply authorities, special districts, and water management districts are encouraged to cooperatively plan for the development of multi-jurisdictional water supply facilities sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of groundwater and surface water supplies. Amendments to incorporate the work plan do not count toward the limitation on the frequency of adoption of amendments to the comprehensive plan.

Section 11. Paragraph (a) of subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2)(a) Consistent with public health and safety, adequate water supplies and sanitary sewer, solid waste, drainage, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent.

Section 12. Paragraph (1) of subsection (2) of section 163.3191, Florida Statutes, is amended to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

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

(1) The extent to which the local government has been successful in identifying alternative water supply projects and traditional water supply projects, including conservation and reuse, necessary to meet the water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction. The report must evaluate the degree to which the local government has implemented the work plan for building public, private, and regional water supply facilities, including development of alternative water supplies, identified in the element as necessary to serve existing and new development. The evaluation must consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. The potable water element must be revised to include a work plan, covering at least a 10-year planning period, for building any 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.

Section 13. Paragraph (d) of subsection (2) and subsections (6), (7), (8), and (11) of section 403.067, Florida Statutes, are amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

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

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

(6) CALCULATION AND ALLOCATION.—

(a) Calculation of total maximum daily load.

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

2. The department shall develop total maximum daily load calculations for each water body or water body segment on the list described in subsection (4) according to the priority ranking and schedule unless the impairment of such waters is due solely to activities other than point and nonpoint sources of pollution. For waters determined to be impaired due solely to factors other than point and nonpoint sources of pollution, no total maximum daily load will be required. A total maximum daily load may be required for those waters that are impaired predominantly due to activities other than point and nonpoint sources. The total maximum daily load calculation shall establish the amount of a pollutant that a water body or water body segment may receive from all sources without exceeding water quality standards, and shall account for seasonal variations and include a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. The total maximum daily load may be based on a pollutant load reduction goal developed by a water management district, provided that such pollutant load reduction

goal is promulgated by the department in accordance with the procedural and substantive requirements of this subsection.

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

1. Existing treatment levels and management practices;
2. Best management practices established and implemented pursuant to paragraph (7)(c);
3. Enforceable treatment levels established pursuant to state or local law or permit;
- 4.2. Differing impacts pollutant sources and forms of pollutant may have on water quality;
- 5.3. The availability of treatment technologies, management practices, or other pollutant reduction measures;
- 6.4. Environmental, economic, and technological feasibility of achieving the allocation;
- 7.5. The cost benefit associated with achieving the allocation;
- 8.6. Reasonable timeframes for implementation;
- 9.7. Potential applicability of any moderating provisions such as variances, exemptions, and mixing zones; and
- 10.8. The extent to which nonattainment of water quality standards is caused by pollution sources outside of Florida, discharges that have ceased, or alterations to water bodies prior to the date of this act.

(e) ~~Not later than February 1, 2001, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing recommendations, including draft legislation, for any modifications to the process for allocating total maximum daily loads, including the relationship between allocations and the watershed or basin management planning process. Such recommendations shall be developed by the department in cooperation with a technical advisory committee which includes representatives of affected parties, environmental organizations, water management districts, and other appropriate local, state, and federal government agencies. The technical advisory committee shall also include such members as may be designated by the President of the Senate and the Speaker of the House of Representatives.~~

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

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) Basin management action plans.—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such a plan shall integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan shall establish a schedule for implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, where appropriate, to achieve the needed pollutant load reductions.

2. A basin management action plan shall equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan shall be those practices developed pursuant to paragraph (c). Where appropriate, the plan may provide pollutant-load-reduction credits to dischargers that have implemented management strategies to reduce pollutant loads, including best management practices, prior to the development of the basin management action plan. The plan shall also identify the mechanisms by which potential future increases in pollutant loading will be addressed.

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

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

5. The basin management action plan shall include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources shall follow the procedures set forth in subparagraph (c)4. Revised basin management action plans shall be adopted pursuant to subparagraph 4.

(b)(a) Total maximum daily load implementation.—

1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a total maximum daily load by a water

management district shall be consistent with this section and shall not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:

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

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

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

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

e.5. Public works including capital facilities; or

f.6. Land acquisition.

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

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

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

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

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

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

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

g. A nonpoint source discharger included in a basin management action plan shall demonstrate compliance with the pollutant reductions established pursuant to subsection (6) by either implementing the appropriate best management practices established pursuant to paragraph (c) or conducting water quality monitoring prescribed by the department or a water management district.

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

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

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

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

(c) Best management practices.—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection paragraph (6)(b). These practices and measures may be adopted by rule by the department and the water management districts pursuant to ss. 120.536(1) and 120.54, and, where adopted by rule, shall may be implemented by those parties responsible for nonagricultural nonpoint source pollution pollutant sources and the department and the water management districts shall assist with implementation. ~~Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to paragraph (6)(b) shall be verified by the department. Implementation, in accordance with applicable rules, of practices that have been verified by the department to be effective at representative sites shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface or ground water caused by those pollutants. Such rules shall also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements. Where water quality problems are detected despite the appropriate implementation, operation, and maintenance of best management practices and other measures according to rules adopted under this paragraph, the department or the water management districts shall institute a reevaluation of the best management practice or other measures.~~

2.(d)1. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection paragraph (6)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implemen-

tation. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to paragraph (6)(b) shall be verified by the department. Implementation, in accordance with applicable rules, of practices that have been verified by the department to be effective at representative sites shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface or ground water caused by those pollutants. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules shall also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements. Where water quality problems are detected despite the appropriate implementation, operation, and maintenance of best management practices and other measures according to rules adopted under this paragraph, the Department of Agriculture and Consumer Services shall institute a reevaluation of the best management practice or other measure.

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

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

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

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

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

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

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

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

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

(d) The total maximum daily load calculation in accordance with paragraph (6)(a) immediately upon the effective date of this act, for those eight water segments within Lake Okeechobee proper as submitted to the United States Environmental Protection Agency pursuant to subsection (2); and.

(e) Implementation of other specific provisions.

(11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.—

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

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

Section 14. Paragraph (c) of subsection (3) of section 373.4595, Florida Statutes, is amended to read:

373.4595 Lake Okeechobee Protection Program.—

(3) LAKE OKEECHOBEE PROTECTION PROGRAM.—A protection program for Lake Okeechobee that achieves phosphorus load reductions for Lake Okeechobee shall be immediately implemented as specified in this subsection. The program shall address the reduction of phosphorus loading to the lake from both internal and external sources. Phosphorus load reductions shall be achieved through a phased program of implementation. Initial implementation actions shall be technology-based, based upon a consideration of both the availability of appropriate technology and the cost of such technology, and shall include phosphorus reduction measures at both the source and the regional level. The initial phase of phosphorus load reductions shall be based upon the district's Technical Publication 81-2 and the district's WOD program, with subsequent phases of phosphorus load reductions based upon the total maximum daily loads established in accordance with s. 403.067. In the development and administration of the Lake Okeechobee Protection Program, the coordinating agencies shall maximize opportunities provided by federal cost-sharing programs and opportunities for partnerships with the private sector.

(c) Lake Okeechobee Watershed Phosphorus Control Program.—The Lake Okeechobee Watershed Phosphorus Control Program is designed to be a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed through continued implementation of existing regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies for

nutrient reduction. The coordinating agencies shall facilitate the application of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1. Agricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. By March 1, 2001, the coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the coordinating agencies during any best management practice reevaluation performed pursuant to sub-subparagraph d. The department shall use best professional judgment in making the initial determination of best management practice effectiveness.

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

b. Where agricultural nonpoint source best management practices or interim measures have been adopted by rule of the Department of Agriculture and Consumer Services, the owner or operator of an agricultural nonpoint source addressed by such rule shall either implement interim measures or best management practices or demonstrate compliance with the district's WOD program by conducting monitoring prescribed by the department or the district. Owners or operators of agricultural nonpoint sources who implement interim measures or best management practices adopted by rule of the Department of Agriculture and Consumer Services shall be subject to the provisions of s. 403.067(7). The Department of Agriculture and Consumer Services, in cooperation with the department and the district, shall provide technical and financial assistance for implementation of agricultural best management practices, subject to the availability of funds.

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

d. Where water quality problems are detected for agricultural nonpoint sources despite the appropriate implementation of adopted best manage-

ment practices, the Department of Agriculture and Consumer Services, in consultation with the other coordinating agencies and affected parties, shall institute a reevaluation of the best management practices and make appropriate changes to the rule adopting best management practices.

2. Nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. By March 1, 2001, the department and the district shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the department and the district during any best management practice reevaluation performed pursuant to sub-subparagraph d.

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

b. Where nonagricultural nonpoint source best management practices or interim measures have been developed by the department and adopted by the district, the owner or operator of a nonagricultural nonpoint source shall implement interim measures or best management practices and be subject to the provisions of s. 403.067(7). The department and district shall provide technical and financial assistance for implementation of nonagricultural nonpoint source best management practices, subject to the availability of funds.

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

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

3. The provisions of subparagraphs 1. and 2. shall not preclude the department or the district from requiring compliance with water quality standards or with current best management practices requirements set

forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules promulgated by the department that are necessary to maintain a federally delegated or approved program.

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

5. Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce nutrient loadings or concentrations within a basin by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, increasing aquifer recharge, or protecting range and timberland from conversion to development, are eligible for grants available under this section from the coordinating agencies. For projects of otherwise equal priority, special funding priority will be given to those projects that make best use of the methods outlined above that involve public-private partnerships or that obtain federal match money. Preference ranking above the special funding priority will be given to projects located in a rural area of critical economic concern designated by the Governor. Grant applications may be submitted by any person or tribal entity, and eligible projects may include, but are not limited to, the purchase of conservation and flowage easements, hydrologic restoration of wetlands, creating treatment wetlands, development of a management plan for natural resources, and financial support to implement a management plan.

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

b. Private and government-owned utilities within Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, Highlands, Hendry, and Glades Counties that dispose of wastewater residual sludge from utility operations and septic removal by land spreading in the Lake Okeechobee watershed may use a line item on local sewer rates to cover wastewater residual treatment and disposal if such disposal and treatment is done by approved alternative treatment methodology at a facility located within the areas designated by the Governor as rural areas of critical economic concern pursuant to s. 288.0656. This additional line item is an environmental protection disposal fee above the present sewer rate and shall not be considered a part of the present sewer rate to customers, notwithstanding provisions to the contrary in chapter 367. The fee shall be established by the county commission or its designated assignee in the county in which the alternative method treatment facility is located. The fee shall be calculated

to be no higher than that necessary to recover the facility's prudent cost of providing the service. Upon request by an affected county commission, the Florida Public Service Commission will provide assistance in establishing the fee. Further, for utilities and utility authorities that use the additional line item environmental protection disposal fee, such fee shall not be considered a rate increase under the rules of the Public Service Commission and shall be exempt from such rules. Utilities using the provisions of this section may immediately include in their sewer invoicing the new environmental protection disposal fee. Proceeds from this environmental protection disposal fee shall be used for treatment and disposal of wastewater residuals, including any treatment technology that helps reduce the volume of residuals that require final disposal, but such proceeds shall not be used for transportation or shipment costs for disposal or any costs relating to the land application of residuals in the Lake Okeechobee watershed.

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

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

8. The Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties which land-apply animal manure to develop conservation or nutrient management plans that limit application, based upon phosphorus loading. Such rules may include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, and recordkeeping requirements.

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

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

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

570.085 Department of Agriculture and Consumer Services; agricultural water conservation.—The department shall establish an agricultural water conservation program that includes the following:

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

Section 16. Section 403.885, Florida Statutes, is amended to read:

403.885 Stormwater management; wastewater management; Water Quality Improvement and Water Restoration Grant Program.—

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

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

(a) Protect public health and the environment.

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

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

(a) An application for a stormwater management project may be funded only if the application is approved by the water management district with

jurisdiction in the project area. District approval must be based on a determination that the project provides a benefit to a priority water body.

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

1. The project has been funded previously through a line item in the General Appropriations Act; and

2. The project is under construction.

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

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

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

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

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

~~(3) The department shall evaluate the annual grant proposals and present the annual list of projects recommended to be funded to the Governor and the Legislature as part of its annual budget request submitted pursuant to chapter 216 beginning with fiscal year 2003-2004.~~

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

~~(6)(5) No later than February 1 of Each year, stormwater management and wastewater management water quality improvement projects and water restoration projects submitted for funding through the legislative process shall be submitted to the department by the appropriate fiscal committees of the House of Representatives and the Senate. The department shall review the projects for funding eligibility and must, no later than~~

March 1 of each year, provide each fiscal committee with a list of projects that appear to meet the eligibility requirements under this grant program.

~~(6) The department may adopt rules necessary to administer this section, including, but not limited to, rules governing timeframes for submitting grant applications, evaluation criteria, forms, matching criteria, maximum grant amounts, and allocation of appropriated funds based upon project and applicant size.~~

Section 17. Section 403.890, Florida Statutes, is created to read:

403.890 Water Protection and Sustainability Program; intent; goals; purposes.—

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

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

(b) Twenty percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily loads program established in s. 403.067. Of these funds, 85 percent shall be transferred to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources. Fifteen percent of these funds shall be transferred to the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of the total maximum daily load program under s. 403.067, suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of capital projects, best management practices, and other measures. These funds shall not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

(c) Ten percent shall be disbursed for the purposes of funding projects pursuant to ss. 373.451-373.459 or surface water restoration activities in water-management-district-designated priority water bodies. The Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:

1. Thirty-five percent to the South Florida Water Management District;
2. Twenty-five percent to the Southwest Florida Water Management District;
3. Twenty-five percent to the St. Johns River Water Management District;
4. Seven and one-half percent to the Suwannee River Water Management District; and
5. Seven and one-half percent to the Northwest Florida Water Management District.

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

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

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

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

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

(a) Fifty percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily loads program established in s. 403.067. Of these funds, 85 percent shall be transferred to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources. Fifteen percent of these funds shall be transferred to the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of suitable best management practices or other measures used to achieve water quality standards in surface waters and

water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of best management practices. These funds shall not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

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

1. Thirty-five percent to the South Florida Water Management District;
2. Twenty-five percent to the Southwest Florida Water Management District;
3. Twenty-five percent to the St. Johns River Water Management District;
4. Seven and one-half percent to the Suwannee River Water Management District; and
5. Seven and one-half percent to the Northwest Florida Water Management District.

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

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

Section 18. Except as otherwise expressly provided in this act, the act shall take effect upon becoming a law.

Approved by the Governor June 24, 2005.

Filed in Office Secretary of State June 24, 2005.